

FILED

**KEN BENNETT
SECRETARY OF STATE**

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CHAPTER 3

SENATE BILL 1045

AN ACT

AMENDING SECTIONS 5-804, 14-3971, 20-224.03, 28-2154, 28-2154.01, 28-6302, 28-6303, 28-6308, 28-6354, 28-6356, 41-1092.02, 41-1279.03, 41-1516, 41-1525, 42-1101, 42-1107, 42-1125, 42-2001 AND 42-2003, ARIZONA REVISED STATUTES; REPEALING TITLE 42, CHAPTER 3, ARTICLE 5.1, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5001, 42-5009, 42-5061, 42-5066, 42-5070, 42-5073, 42-5074, 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; REPEALING SECTION 42-6104, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-6105, 42-6106, 42-6203, 42-13353 AND 42-15006, ARIZONA REVISED STATUTES; REPEALING SECTION 43-106, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-401, 43-403, 43-404, 43-412, 43-419, 43-1021 AND 43-1022, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1031, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1074, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 96; AMENDING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 97; AMENDING SECTIONS 43-1088, 43-1089, 43-1089.01, 43-1122 AND 43-1161, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 113; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 114; AMENDING SECTIONS 43-1505, 43-1507, 48-5102 AND 48-5103, ARIZONA REVISED STATUTES; REPEALING LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 9, SECTIONS 1 AND 8; AMENDING LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 130; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-804, Arizona Revised Statutes, is amended to
3 read:

4 5-804. Administrative powers and duties

5 A. The board of directors, on behalf of the authority, may:

6 1. Adopt and use a corporate seal.

7 2. Sue and be sued.

8 3. Enter into contracts, including intergovernmental agreements under
9 title 11, chapter 7, article 3, as necessary to carry out the purposes and
10 requirements of this chapter.

11 4. Enter into an intergovernmental agreement under title 11, chapter
12 7, article 3 with the Arizona exposition and state fair board for the joint
13 use of properties and facilities, sharing administration, personnel and
14 resources and other matters that are beneficial to the purposes of the
15 multipurpose facility and the state fair.

16 5. Adopt administrative rules as necessary to administer and operate
17 the authority and any property under its jurisdiction.

18 6. Acquire by any lawful means and operate, maintain, encumber and
19 dispose of real and personal property and interests in property.

20 7. Retain legal counsel and other consultants as necessary to carry
21 out the purposes of the authority.

22 8. Enter into contracts with a professional football league for its
23 championship game or with a nonprofit community based organization that
24 operates or administers an intercollegiate national championship game that
25 provide for the payment to the league or organization of transaction
26 privilege tax revenues derived pursuant to section 42-5073, subsection F- G,
27 paragraph 1 from sales of admissions to these championship games if the
28 authority has fully paid the current year's required principal and interest
29 payments on any outstanding authority bonds for which these revenues were
30 pledged pursuant to article 3 of this chapter.

31 9. Enter into contracts with a nonprofit community based organization
32 that sponsors an intercollegiate national championship game that provide for
33 the payment to the organization of a ticket surcharge or facility user fee
34 associated with parking if the authority has fully paid the current year's
35 required principal and interest payments on any outstanding authority bonds
36 for which these revenues were pledged pursuant to article 3 of this chapter.

37 B. The board of directors shall:

38 1. Appoint from among its members a chairman, a secretary and such
39 other officers as may be necessary to conduct its business.

40 2. Employ an executive director and prescribe the terms and conditions
41 of employment.

42 3. Keep and maintain a complete and accurate record of all of its
43 proceedings. The board is a public body for purposes of title 38, chapter 3,
44 article 3.1 and title 39, chapter 1.

1 4. Provide for the use, maintenance and operation of the properties
2 and interests owned or controlled by the authority.

3 5. On or before September 12, 2002, approve a site for the
4 construction of the multipurpose facility proposed at any time before that
5 date by site hosts.

6 Sec. 2. Section 14-3971, Arizona Revised Statutes, is amended to read:
7 14-3971. Collection of personal property by affidavit;
8 ownership of vehicles; affidavit of succession to
9 real property

10 A. At any time after the death of a decedent, any employer owing
11 wages, salary or other compensation for personal services of the decedent
12 shall pay to the surviving spouse of the decedent the amount owing, not in
13 excess of five thousand dollars, on being presented an affidavit made by or
14 on behalf of the spouse stating that the affiant is the surviving spouse of
15 the decedent, or is authorized to act on behalf of the spouse, and that no
16 application or petition for the appointment of a personal representative is
17 pending or has been granted in this state or, if granted, the personal
18 representative has been discharged or more than one year has elapsed since a
19 closing statement has been filed.

20 B. Thirty days after the death of a decedent, any person indebted to
21 the decedent or having possession of tangible personal property or an
22 instrument evidencing a debt, obligation, stock or chose in action belonging
23 to the decedent shall make payment of the indebtedness or deliver the
24 tangible personal property or an instrument evidencing a debt, obligation,
25 stock or chose in action to a person claiming to be the successor of the
26 decedent upon being presented an affidavit made by or on behalf of the
27 successor and stating that all of the following are true:

28 1. Thirty days have elapsed since the death of the decedent.

29 2. Either:

30 (a) An application or petition for the appointment of a personal
31 representative is not pending and a personal representative has not been
32 appointed in any jurisdiction and the value of all personal property in the
33 decedent's estate, wherever located, less liens and encumbrances, does not
34 exceed fifty thousand dollars as valued as of the date of death.

35 (b) The personal representative has been discharged or more than one
36 year has elapsed since a closing statement has been filed and the value of
37 all personal property in the decedent's estate, wherever located, less liens
38 and encumbrances, does not exceed fifty thousand dollars as valued as of the
39 date of the affidavit.

40 3. The claiming successor is entitled to payment or delivery of the
41 property.

42 C. A transfer agent of any security shall change the registered
43 ownership on the books of a corporation from the decedent to the successor or
44 successors on presentation of an affidavit pursuant to subsection B of this
45 section.

1 D. The motor vehicle division shall transfer title of a motor vehicle
2 from the decedent to the successor or successors on presentation of an
3 affidavit as provided in subsection B of this section and on payment of the
4 necessary fees.

5 E. No sooner than six months after the death of a decedent, a person
6 or persons claiming as successor or successors to the decedent's interest in
7 real property, including any debt secured by a lien on real property, may
8 file in the court in the county in which the decedent was domiciled at the
9 time of death, or if the decedent was not domiciled in this state then in any
10 county in which real property of the decedent is located, an affidavit
11 describing the real property and the interest of the decedent in that
12 property and stating that all of the following are true and material and
13 acknowledging that any false statement in the affidavit may subject the
14 person or persons to penalties relating to perjury and subornation of
15 perjury:

16 1. Either:

17 (a) An application or petition for the appointment of a personal
18 representative is not pending and a personal representative has not been
19 appointed in any jurisdiction and the value of all real property in the
20 decedent's estate located in this state, less liens and encumbrances against
21 the real property, does not exceed seventy-five thousand dollars as valued at
22 the date of death. The value of the decedent's interest in that real
23 property shall be determined from the full cash value of the property as
24 shown on the assessment rolls for the year in which the decedent died, except
25 that in the case of a debt secured by a lien on real property the value shall
26 be determined by the unpaid principal balance due on the debt as of the date
27 of death.

28 (b) The personal representative has been discharged or more than one
29 year has elapsed since a closing statement has been filed and the value of
30 all real property in the decedent's estate, wherever located, less liens and
31 encumbrances, does not exceed seventy-five thousand dollars as valued as of
32 the date of the affidavit. The value of the decedent's interest in that real
33 property is determined from the full cash value of the property as shown on
34 the assessment rolls for the year in which the affidavit is given, except
35 that if a debt is secured by a lien on real property, the value is determined
36 by the unpaid principal balance due on the debt as of the date of the
37 affidavit.

38 2. Six months have elapsed since the death of the decedent as shown in
39 a certified copy of the decedent's death certificate attached to the
40 affidavit.

41 3. Funeral expenses, expenses of last illness, and all unsecured debts
42 of the decedent have been paid.

43 4. The person or persons signing the affidavit are entitled to the
44 real property by reason of the allowance in lieu of homestead, exempt
45 property or family allowance, by intestate succession as the sole heir or

1 heirs, or by devise under a valid last will of the decedent, the original of
2 which is attached to the affidavit or has been probated.

3 5. No other person has a right to the interest of the decedent in the
4 described property.

5 6. No federal or Arizona estate tax is due on the decedent's estate.

6 F. The normal filing fee shall be charged for the filing of an
7 affidavit under subsection E of this section unless waived by the court as
8 provided by section 12-301 or 12-302. On receipt of the affidavit and after
9 determining that the affidavit is complete, the registrar shall cause to be
10 issued a certified copy of the affidavit without attachments, and the copy
11 shall be recorded in the office of the recorder in the county where the real
12 property is located.

13 G. This section does not limit the rights of heirs and devisees under
14 section 14-3901.

15 Sec. 3. Section 20-224.03, Arizona Revised Statutes, is amended to
16 read:

17 20-224.03. Premium tax credit for new employment

18 A. FROM AND AFTER JUNE 30, 2011, a credit is allowed against the
19 premium tax liability imposed pursuant to section 20-224, 20-837, 20-1010,
20 20-1060 or 20-1097.07 for net increases in full-time employees RESIDING IN
21 THIS STATE AND hired in qualified employment positions IN THIS STATE as
22 COMPUTED AND certified by the Arizona commerce authority pursuant to section
23 41-1525. A tax credit is not allowed against the portion of the tax payable
24 to the fire fighters' relief and pension fund pursuant to section 20-224 or
25 the portion of the tax payable to the public safety personnel retirement
26 system pursuant to section 20-224.01.

27 B. Subject to subsection E of this section, the amount of the tax
28 credit is equal to:

29 1. Three thousand dollars for each full-time employee hired ~~for the~~
30 ~~full taxable year~~ in a qualified employment position in ~~each of the first~~
31 ~~three years~~ THE FIRST YEAR OR PARTIAL YEAR of employment, but not more than
32 four hundred employees in any taxable year. EMPLOYEES HIRED IN THE LAST
33 NINETY DAYS OF THE TAXABLE YEAR ARE EXCLUDED FOR THAT TAXABLE YEAR AND ARE
34 CONSIDERED TO BE NEW EMPLOYEES IN THE FOLLOWING TAXABLE YEAR.

35 2. THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE IN A QUALIFIED
36 EMPLOYMENT POSITION FOR THE FULL TAXABLE YEAR IN THE SECOND YEAR OF
37 CONTINUOUS EMPLOYMENT.

38 3. THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE IN A QUALIFIED
39 EMPLOYMENT POSITION FOR THE FULL TAXABLE YEAR IN THE THIRD YEAR OF CONTINUOUS
40 EMPLOYMENT.

41 C. To qualify for a credit under this section, the insurer and the
42 employment positions must meet the requirements prescribed by section
43 41-1525.

1 D. A credit is allowed for employment in the second and third year
2 only for qualified employment positions for which a credit was claimed and
3 allowed in the first year.

4 E. The net increase in the number of qualified employment positions is
5 the lesser of the total number of filled qualified employment positions
6 created AT THE BUSINESS LOCATION during the taxable year or the difference
7 between the average number of full-time employees IN THIS STATE in the
8 current ~~tax~~ TAXABLE year and the average number of full-time employees IN
9 THIS STATE during the immediately preceding taxable year. The net increase
10 in the number of qualified employment positions computed under this
11 subsection may not exceed EITHER four hundred qualified employment positions
12 per taxpayer each year OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF
13 FULL-TIME EMPLOYEES IN THIS STATE IN THE CURRENT TAXABLE YEAR AND THE AVERAGE
14 NUMBER OF FULL-TIME EMPLOYEES IN THIS STATE DURING THE IMMEDIATELY PRECEDING
15 TAXABLE YEAR.

16 F. A taxpayer who claims a credit under section 20-224.04 shall not
17 claim a credit under this section with respect to the same employment
18 positions.

19 G. If the allowable tax credit exceeds the state premium tax
20 liability, the amount of the claim not used as an offset against the state
21 premium tax liability may be carried forward as a tax credit against
22 subsequent years' state premium tax liability for a period not exceeding five
23 taxable years.

24 H. If the business is sold or changes ownership through
25 reorganization, stock purchase or merger, the new taxpayer may claim first
26 year credits only for the qualified employment positions that it created and
27 filled with an eligible employee after the purchase or reorganization was
28 complete. If a person purchases a taxpayer that had qualified for first or
29 second year credits or if an insurance business changes ownership through
30 reorganization, stock purchase or merger, the new taxpayer may claim the
31 second or third year credits if it meets other eligibility requirements of
32 this section. Credits for which a taxpayer qualified before the changes
33 described in this subsection are terminated and lost at the time the changes
34 are implemented.

35 I. An insurer that claims a tax credit against state premium tax
36 liability is not required to pay any additional retaliatory tax imposed
37 pursuant to section 20-230 as a result of claiming that tax credit.

38 J. A failure to timely report and certify to the Arizona commerce
39 authority the information prescribed by section 41-1525, subsection D and in
40 the manner prescribed by section 41-1525, subsection E disqualifies the
41 insurer from the credit under this section. The department of insurance
42 shall require written evidence of the timely report to the Arizona commerce
43 authority.

44 K. A tax credit under this section is subject to recovery for a
45 violation described in section 41-1525, subsection G.

1 L. The department may adopt rules necessary for the administration of
2 this section.

3 Sec. 4. Section 28-2154, Arizona Revised Statutes, is amended to read:

4 28-2154. Special registrations

5 A. A nonresident who purchases an unregistered vehicle in this state
6 for removal to the state of residence of the purchaser shall obtain a special
7 ninety day nonresident registration permit for the vehicle. The nonresident
8 shall obtain the special ninety day nonresident registration permit by
9 applying to the department, to an authorized third party or to a motor
10 vehicle dealer as defined in section 28-4301 and by paying the fees
11 prescribed by section 28-2003. Unless the nonresident purchaser has
12 completed a form prescribed by section 42-5009, subsection ~~I~~ H, an affidavit
13 in a form prescribed by the director shall accompany the application and
14 shall contain the following statements:

15 1. The purchaser is not a resident of this state as defined in section
16 28-2001. For the purposes of this section and section 28-2154.01, the
17 purchaser shall present to the department, an authorized third party or a
18 motor vehicle dealer a driver license or other evidence prescribed by the
19 director showing that the purchaser is not a resident of this state.

20 2. The vehicle is purchased to be registered out of state within
21 ninety days after the issuance of the special ninety day nonresident
22 registration permit.

23 3. The vehicle is not purchased for transfer to a resident of this
24 state.

25 4. Other information that the director deems necessary.

26 B. At the time of application for a special ninety day nonresident
27 registration permit, the purchaser shall submit for inspection proper
28 evidence of ownership of the vehicle to be registered. The special ninety
29 day nonresident registration permit is valid for not more than ninety days
30 from the date of issuance and shall be in the form prescribed by the
31 director. A person who obtains a special ninety day nonresident registration
32 permit on a semitrailer that has been manufactured in this state may use the
33 semitrailer for commercial purposes if the semitrailer is being used to
34 transport goods from this state, subject to the payment of any taxes
35 prescribed by this title.

36 C. An enrolled member of an Indian tribe who resides on the Indian
37 reservation established for that tribe and who purchases an unregistered
38 vehicle in this state for removal to the Indian reservation shall obtain a
39 special ninety day nonresident registration permit for the vehicle. The
40 member may obtain the special ninety day nonresident registration permit by
41 applying to the department, to an authorized third party or to any motor
42 vehicle dealer as defined by section 28-4301 and by payment of the fees
43 prescribed by section 28-2003.

44 D. A resident who does not have complete documentation for issuance of
45 an Arizona title and registration on a noncommercial vehicle but who has

1 established ownership of the vehicle to the satisfaction of the department
2 may receive a special ninety day resident registration by applying and paying
3 the fee prescribed by section 28-2003 to the department. The basis of
4 assessment for the full annual registration fee and vehicle license tax
5 relates back to the date of issuance of the first special ninety day resident
6 registration.

7 E. A resident may receive a second consecutive special ninety day
8 resident registration on application and payment of the fee prescribed by
9 section 28-2003 if:

10 1. The person has applied for a bonded title and the title has not
11 been issued during the first ninety day registration.

12 2. The person is awaiting settlement of an estate.

13 3. The person is awaiting lien clearance.

14 4. The person is awaiting a hearing decision as a result of a title
15 complaint.

16 5. The person is awaiting the issuance of honorary consular official
17 special license plates.

18 6. The director determines other circumstances justify the issuance.

19 F. At the discretion of the director, a resident may receive more than
20 two consecutive special ninety day resident registrations for a vehicle in a
21 twelve month period.

22 G. If there is a judgment against a resident of this state in another
23 state that requires suspension of the resident's vehicle registration, in
24 lieu of suspension of the resident's vehicle registration the department may
25 issue a special temporary registration for the resident's vehicle that is
26 valid for a period of not more than one hundred eighty days.

27 Sec. 5. Section 28-2154.01, Arizona Revised Statutes, is amended to
28 read:

29 28-2154.01. Special ninety day nonresident registration
30 permits; procedures

31 A. A dealer or an authorized third party that issues a special ninety
32 day nonresident registration permit pursuant to section 28-2154 shall send an
33 electronic record of the permit to the department through an authorized third
34 party or through the department's authorized third party electronic service
35 provider.

36 B. The department, an authorized third party or a dealer shall not:

37 1. Issue, assign or deliver a special ninety day nonresident
38 registration permit to any person unless the person does all of the
39 following:

40 (a) Obtains the special ninety day nonresident registration permit
41 pursuant to section 28-2154.

42 (b) Completes an affidavit in a form prescribed by the director
43 pursuant to section 28-2154 or completes a form prescribed by section
44 42-5009, subsection I- H.

1 (c) Presents to the department, authorized third party or motor
2 vehicle dealer a ~~currently~~ CURRENT valid driver license issued by another
3 state indicating an address outside of this state.

4 (d) Provides any other information reasonably and uniformly required
5 by the department of transportation pursuant to section 28-2154 or the
6 department of revenue pursuant to section 42-5009, subsection ~~I~~ H.

7 2. Issue and affix, as prescribed in subsection C of this section, a
8 special ninety day nonresident registration permit unless the permit is
9 recorded in the electronic records of the department.

10 C. A person who issues a special ninety day nonresident registration
11 permit shall affix or insert, clearly and indelibly, on the face of each
12 permit the dates of issuance and expiration and the make and vehicle
13 identification number of the vehicle. The special ninety day nonresident
14 registration permit shall not bear the name or address of the person who
15 purchased the vehicle in a position that is legible from outside of the
16 vehicle.

17 D. A dealer or authorized third party who issues a special ninety day
18 nonresident registration permit shall maintain a record, in a form prescribed
19 by the director, of all special ninety day nonresident registration permits
20 issued by the dealer or authorized third party and a record of other
21 information pertaining to the issuance of special ninety day nonresident
22 registration permits that the department of transportation or the department
23 of revenue requires.

24 E. The dealer or authorized third party shall keep each record for at
25 least three years after the date of entry of the record.

26 F. A dealer or authorized third party shall allow the director of the
27 department of transportation or the director of the department of revenue
28 full and free access to the records during regular business hours.

29 G. The electronic record is written notice of the removal of the
30 vehicle from this state for use in the purchaser's state of residence and
31 relieves the dealer or authorized third party of liability in accordance with
32 the requirements of section 42-5009.

33 H. If a purchaser registers the vehicle in this state within three
34 hundred sixty-five days after the issuance of the special ninety day
35 nonresident registration permit, the purchaser is liable in an amount equal
36 to any tax, penalty and interest that the motor vehicle dealer or authorized
37 third party would have been required to pay under title 42, chapter 5 and
38 under articles IV and VI of the model city tax code as defined in
39 section 42-6051. At the time of issuing the special ninety day nonresident
40 registration permit, a motor vehicle dealer or authorized third party shall
41 inform the purchaser in writing of the purchaser's liability described in
42 this section. Subsequent registration or use of the vehicle in this state
43 does not create a cause of action against a dealer or authorized third party
44 that complies with section 28-2154, subsection A, this section and section
45 42-5009, subsection ~~I~~ H.

1 I. The department of transportation and the department of revenue
2 shall jointly develop and prescribe forms for the motor vehicle dealer, the
3 authorized third party and the purchaser to complete for the proper
4 administration and enforcement of this section.

5 J. Compliance with this section and section 28-2154 allows delivery of
6 the vehicle to a nonresident purchaser in this state and retains the
7 applicable deductions pursuant to section 42-5061, subsection A, paragraph
8 28, subdivision (a) and subsection U.

9 Sec. 6. Section 28-6302, Arizona Revised Statutes, is amended to read:

10 28-6302. Transportation excise tax distribution; counties with
11 one million two hundred thousand or more persons;
12 regional area road fund

13 A. In a county with a population of one million two hundred thousand
14 or more persons, the officer collecting transportation excise tax monies
15 pursuant to section ~~42-6104~~ or 42-6105 that are designated for deposit in the
16 regional area road fund shall immediately transfer the monies to the state
17 treasurer. The state treasurer shall deposit the monies in a fund designated
18 for the county as the regional area road fund. The state treasurer shall
19 hold monies in the regional area road fund as a trustee for the county.

20 B. Except as provided in this article, the county in which the
21 transportation excise taxes are levied has the beneficial interest in the
22 regional area road fund. This state has no beneficial interest in the
23 regional area road fund except as an obligee for reimbursement of state
24 monies that are advanced as salaries or expenses by this state or the
25 department and that are to be repaid by the regional area road fund.

26 C. Monies and investments within the regional area road fund may be
27 used and spent only as provided in this chapter. An appropriation of any
28 nature shall not be required before the expenditure of monies from the
29 regional area road fund. Monies in the bond proceeds account or construction
30 account of a regional area road fund may be obligated for payment in future
31 years for the purpose of right-of-way acquisition subject to the limitations
32 prescribed in sections 28-7001, AND 28-7002 and SECTION 42-6105, subsection
33 E- D, paragraphs 1 and 2. The state treasurer shall make payments from the
34 regional area road fund by check, and a warrant or voucher is not
35 necessary. Subject to the powers granted to the board in chapter 21, article
36 2 of this title, the director shall administer monies deposited in the
37 regional area road fund.

38 Sec. 7. Section 28-6303, Arizona Revised Statutes, is amended to read:

39 28-6303. Regional area road fund; separate accounts

40 A. The regional area road fund is divided into three separate accounts
41 designated as the bond account, the construction account and the bond
42 proceeds account.

43 B. The state treasurer shall:

44 1. Account separately for each account.

1 2. Make transfers between accounts only as provided in this article or
2 chapter 21, article 2 of this title.

3 3. Before any bonds are issued, deposit transportation excise tax
4 revenues transferred to the state treasurer in the construction account.
5 These revenues shall be expended as provided in this article.

6 4. After any bonds are issued, deposit transportation excise tax
7 revenues transferred to the state treasurer in the bond account first until
8 the bond account contains monies sufficient to meet all principal, interest
9 or redemption requirements for the current period as required by any
10 resolution of the board pertaining to the issuance of bonds.

11 5. After all current period requirements for all of the bonds are
12 deposited in the bond account, deposit the balance of transportation excise
13 tax revenues transferred to the state treasurer for the current period in the
14 construction account.

15 C. The state treasurer may:

16 1. Invest monies in any account of the regional area road fund in any
17 securities or obligations authorized by title 35, chapter 2, article 2.

18 2. For the purpose of investments, commingle monies within the
19 regional area road fund with state monies if all interest earned on the
20 monies in the regional area road fund of a county is credited to the
21 respective account of the regional area road fund in which the investment was
22 made.

23 D. The department shall separately account for the uses of
24 transportation excise tax revenues deposited into the bond account and the
25 construction account in order to identify how the transportation excise tax
26 revenues are used pursuant to section 42-6105, subsection E- D, paragraphs 1
27 and 2, for:

28 1. Freeways and other routes in the state highway system.

29 2. Major arterial streets and intersection improvements.

30 Sec. 8. Section 28-6308, Arizona Revised Statutes, is amended to read:

31 28-6308. Regional planning agency transportation policy
32 committee; regional transportation plan; plan review
33 process

34 A. The regional planning agency in the county shall establish a
35 transportation policy committee consisting of twenty-three members as
36 follows:

37 1. Seventeen members of the regional planning agency, including the
38 chairperson of the citizens transportation oversight committee, one member of
39 the state transportation board who represents the county, one member of the
40 county board of supervisors and one member representing Indian communities in
41 the county.

42 2. Six members who represent regionwide business interests, one of
43 whom must represent transit interests, one of whom must represent freight
44 interests and one of whom must represent construction interests. The
45 president of the senate and the speaker of the house of representatives shall

1 each appoint three members to the committee pursuant to this
2 paragraph. Members who are appointed pursuant to this paragraph serve
3 six-year terms. The chairman of the regional planning agency may submit names
4 to the president of the senate and the speaker of the house of
5 representatives for consideration for appointment to the transportation
6 policy committee.

7 B. Through the regional planning agency, the transportation policy
8 committee shall:

9 1. By a majority vote of the members, recommend approval of a twenty
10 year comprehensive, performance based, multimodal and coordinated regional
11 transportation plan in the county, including transportation corridors by
12 priority and a schedule indicating the dates that construction will commence
13 for projects contained in the plan.

14 2. Develop the plan in cooperation with the regional public
15 transportation authority in the county and the department of transportation
16 and in consultation with the county board of supervisors, Indian communities
17 and cities and towns in the county.

18 3. Submit the plan for review by the regional public transportation
19 authority in the county, the state board of transportation, the county board
20 of supervisors, Indian communities and cities and towns in the county at the
21 alternatives stage of the plan and the final draft stage of the plan. After
22 reviewing the plan, the regional public transportation authority in the
23 county, the county board of supervisors and the state board of
24 transportation, by majority vote of the members of each entity within thirty
25 days after receiving the plan, shall submit a written recommendation to the
26 transportation policy committee that the plan be approved, modified or
27 disapproved. Within thirty days after receiving the plan, Indian communities
28 and cities and towns in the county may submit a written recommendation to the
29 transportation policy committee that the plan be approved, modified or
30 disapproved.

31 4. Consider plan modifications proposed by any of the entities as
32 prescribed in paragraph 3 of this subsection.

33 5. By majority vote, approve, disapprove or further modify each
34 proposed plan modification.

35 6. Provide a written response to the regional public transportation
36 authority, the state board of transportation, the county board of supervisors
37 and the entity that submitted the proposed modification within thirty days
38 after the vote on the proposed modification explaining the affirmation,
39 rejection or further modification of each proposed modification.

40 7. Recommend the plan to the regional planning agency for approval for
41 an air quality conformity analysis.

42 C. The regional transportation plan:

43 1. Shall include the following transportation mode classifications
44 with a revenue allocation to each classification consistent with section
45 42-6105, subsection E- D:

- 1 (a) Freeways and other routes in the state highway system.
- 2 (b) Major arterial streets and intersection improvements.
- 3 (c) Public transportation systems.

4 2. Shall provide a suggested construction schedule for the
5 transportation projects contained in the plan.

6 3. May be annually updated to introduce new controlled access
7 highways, related grade separations and transportation projects or to modify
8 the existing plan.

9 4. Shall be developed to meet federal air quality requirements
10 established for the region in which it is located.

11 D. Transportation excise tax revenues that are distributed pursuant to
12 section 42-6105, subsection E- D shall not be redistributed or used for other
13 transportation modes. Except as provided by section 28-6353, subsections D,
14 E and F, transportation excise tax revenues that are dedicated in the plan to
15 a specific project or transportation system may only be redistributed to or
16 otherwise used for another project within the same transportation mode if
17 approved by a majority vote of the transportation policy committee.

18 Sec. 9. Section 28-6354, Arizona Revised Statutes, is amended to read:
19 28-6354. Annual report; hearing; priority criteria

20 A. The regional planning agency shall issue an annual report on the
21 status of the projects funded pursuant to section ~~42-6104~~ or 42-6105 and
22 shall hold a public hearing in the county within thirty days after the report
23 is issued. The report and the hearing shall address the following topics:

- 24 1. The status of the projects.
- 25 2. Proposed changes to the regional transportation plan.
- 26 3. Proposed changes in corridor and corridor segment priorities and to
27 other projects funded pursuant to section ~~42-6104~~ or 42-6105.
- 28 4. Project financing and project options.
- 29 5. The criteria used to establish priorities as required by subsection
30 B of this section.

31 B. The regional planning agency shall develop criteria to establish
32 the priority of corridors and corridor segments and other transportation
33 projects, including:

- 34 1. The extent of local public and private funding participation.
- 35 2. The social and community impact.
- 36 3. The establishment of a complete transportation system for the
37 region as rapidly as is practicable.
- 38 4. The construction of projects to serve regional transportation
39 needs.
- 40 5. The construction of segments that provide connectivity with other
41 elements of the regional transportation system.
- 42 6. Other relevant criteria developed by the regional planning agency.

1 Sec. 10. Section 28-6356, Arizona Revised Statutes, is amended to
2 read:

3 28-6356. Citizens transportation oversight committee

4 A. A citizens transportation oversight committee is established in
5 counties with a population of one million two hundred thousand or more
6 persons and that have levied a transportation excise tax pursuant to section
7 ~~42-6104 or~~ 42-6105.

8 B. The citizens transportation oversight committee consists of the
9 following members who are not elected officials of or employed by this state
10 or any county, city or town in this state:

11 1. One member who serves as chairperson of the committee and who is
12 appointed by the governor pursuant to section 38-211.

13 2. One member who represents each supervisorial district in the county
14 and who is appointed by the board of supervisors. The board of supervisors
15 shall consult with the mayors of each city and town located within each
16 supervisorial district regarding appointments. At all times during the term,
17 each member appointed pursuant to this paragraph shall legally reside in a
18 different city or town located in the county. Members appointed pursuant to
19 this paragraph shall have expertise in transportation systems or issues.

20 3. One member who resides in the county and who is appointed by the
21 governor pursuant to section 38-211.

22 C. Members shall be appointed for terms of three years.

23 D. The chairperson shall also serve as:

24 1. A nonvoting member of the departmental committee established by
25 section 28-6951 only for issues relating to the regional transportation
26 plan. The chairperson may appoint a designee to attend meetings of the
27 departmental committee.

28 2. A voting member of the governing body of the regional planning
29 agency in the county for all matters relating to the regional transportation
30 plan.

31 3. A voting member of the transportation policy committee of the
32 regional planning agency under section 28-6308 in the county for all matters
33 relating to the regional transportation plan.

34 E. The citizens transportation oversight committee shall meet at least
35 once each calendar quarter.

36 F. The citizens transportation oversight committee shall:

37 1. Review and advise the board, the governor, the director, the
38 governing body of the regional planning agency and the board of directors of
39 the regional public transportation authority on matters ~~relating to all~~
40 ~~projects funded pursuant to section 42-6104 and~~ in the regional
41 transportation plan.

42 2. Review and make recommendations regarding any proposed major
43 amendment of the regional transportation plan by the governing body of the
44 regional planning agency pursuant to section 28-6353.

1 3. Annually review and comment on the criteria developed pursuant to
2 section 28-6354, subsection B.

3 4. Hold public hearings and issue public reports as it deems
4 appropriate.

5 5. Annually contract with an independent auditor who is a certified
6 public accountant to conduct a financial compliance audit of all expenditures
7 from the regional area road fund and the public transportation fund and
8 receive the auditor's report. The department shall reimburse the committee
9 for the cost of this audit from the highway user revenue fund pursuant to
10 section 28-6538, subsection B, paragraph 1.

11 6. In consultation with the auditor general, set parameters for the
12 performance audit prescribed in section 41-1279.03, subsection A, paragraph 6
13 in the county, review the results of the auditor general's performance audit
14 and make recommendations to the regional planning agency, the regional public
15 transportation authority, the department, the speaker of the house of
16 representatives, the president of the senate and the governor.

17 G. The committee may:

18 1. Receive written complaints from citizens regarding adverse impacts
19 of any transportation project funded in the regional transportation plan,
20 determine which complaints warrant further review and make recommendations to
21 the state transportation board regarding the complaints.

22 2. Receive written complaints from citizens relating to the regional
23 planning agency's responsibilities as prescribed in this chapter, determine
24 which complaints warrant further review and make recommendations to the
25 regional planning agency regarding the complaints.

26 3. Make recommendations to the regional planning agency, the regional
27 public transportation authority and the state transportation board regarding
28 transportation projects and public transportation systems funded in the
29 regional transportation plan, the transportation improvement program, the
30 department's five year construction program and the life cycle management
31 program.

32 H. Failure by the citizens transportation oversight committee to act
33 does not bar the governing body of the regional planning agency or the board
34 of directors of the regional public transportation authority from taking
35 action.

36 I. Members of the committee are not eligible to receive compensation
37 or reimbursement for expenses.

38 Sec. 11. Section 41-1092.02, Arizona Revised Statutes, is amended to
39 read:

40 41-1092.02. Appealable agency actions; application of
41 procedural rules; exemption from article

42 A. This article applies to all contested cases as defined in section
43 41-1001 and all appealable agency actions, except contested cases with or
44 appealable agency actions of:

45 1. The state department of corrections.

- 1 2. The board of executive clemency.
- 2 3. The industrial commission of Arizona.
- 3 4. The Arizona corporation commission.
- 4 5. The Arizona board of regents and institutions under its
- 5 jurisdiction.
- 6 6. The state personnel board.
- 7 7. The department of juvenile corrections.
- 8 8. The department of transportation.
- 9 9. The department of economic security except as provided in sections
- 10 8-506.01, 8-811 and 46-458.
- 11 10. The department of revenue regarding:
- 12 (a) Income tax, ~~OR withholding tax or estate tax.~~
- 13 (b) Any tax issue related to information associated with the reporting
- 14 of income tax, ~~OR withholding tax or estate tax~~ unless the taxpayer requests
- 15 in writing that this article apply and waives confidentiality under title 42,
- 16 chapter 2, article 1.
- 17 11. The board of tax appeals.
- 18 12. The state board of equalization.
- 19 13. The state board of education, but only in connection with contested
- 20 cases and appealable agency actions related to applications for issuance or
- 21 renewal of a certificate and discipline of certificate holders pursuant to
- 22 sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.
- 23 14. The board of fingerprinting.
- 24 B. Unless waived by all parties, an administrative law judge shall
- 25 conduct all hearings under this article, and the procedural rules set forth
- 26 in this article and rules made by the director apply.
- 27 C. Except as provided in subsection A of this section:
- 28 1. A contested case heard by the office of administrative hearings
- 29 regarding taxes administered under title 42 shall be subject to the
- 30 provisions under section 42-1251.
- 31 2. A final decision of the office of administrative hearings regarding
- 32 taxes administered under title 42 may be appealed by either party to the
- 33 director of the department of revenue, or a taxpayer may file and appeal
- 34 directly to the board of tax appeals pursuant to section 42-1253.
- 35 D. Except as provided in subsections A, B, E, F and G of this section
- 36 and notwithstanding any other administrative proceeding or judicial review
- 37 process established in statute or administrative rule, this article applies
- 38 to all appealable agency actions and to all contested cases.
- 39 E. Except for a contested case or an appealable agency action
- 40 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09
- 41 do not apply to the department of revenue.
- 42 F. The board of appeals established by section 37-213 is exempt from:
- 43 1. The time frames for hearings and decisions provided in section
- 44 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

1 2. The requirement in section 41-1092.06, subsection A to hold an
2 informal settlement conference at the appellant's request if the sole subject
3 of an appeal pursuant to section 37-215 is the estimate of value reported in
4 an appraisal of lands or improvements.

5 G. Auction protest procedures pursuant to title 37, chapter 2, article
6 4.1 are exempt from this article.

7 Sec. 12. Section 41-1279.03, Arizona Revised Statutes, is amended to
8 read:

9 41-1279.03. Powers and duties

10 A. The auditor general shall:

11 1. Prepare an audit plan for approval by the committee and report to
12 the committee the results of each audit and investigation and other reviews
13 conducted by the auditor general.

14 2. Conduct or cause to be conducted at least biennial financial and
15 compliance audits of financial transactions and accounts kept by or for all
16 state agencies subject to the single audit act of 1984 (P.L. 98-502). The
17 audits shall be conducted in accordance with generally accepted governmental
18 auditing standards and accordingly shall include tests of the accounting
19 records and other auditing procedures as may be considered necessary in the
20 circumstances. The audits shall include the issuance of suitable reports as
21 required by the single audit act of 1984 (P.L. 98-502) so the legislature,
22 federal government and others will be informed as to the adequacy of
23 financial statements of the state in compliance with generally accepted
24 governmental accounting principles and to determine whether the state has
25 complied with laws and regulations that may have a material effect on the
26 financial statements and on major federal assistance programs.

27 3. Perform procedural reviews for all state agencies at times
28 determined by the auditor general. These reviews may include evaluation of
29 administrative and accounting internal controls and reports on such reviews.

30 4. Perform special research requests, special audits and related
31 assignments as designated by the committee and conduct performance audits,
32 special audits, special research requests and investigations of any state
33 agency, whether created by the constitution or otherwise, as may be requested
34 by the committee.

35 5. Annually on or before the fourth Monday of December, prepare a
36 written report to the governor and to the committee ~~which~~ THAT contains a
37 summary of activities for the previous fiscal year.

38 6. In the tenth year and in each fifth year thereafter in which a
39 transportation excise tax is in effect in a county as provided in section
40 ~~42-6104~~, 42-6106 or 42-6107, conduct a performance audit that:

41 (a) Reviews past expenditures and future planned expenditures of the
42 transportation excise revenues and determines the impact of the expenditures
43 in solving transportation problems within the county and, for a
44 transportation excise tax in effect in a county as provided in section

1 42-6107, determines whether the expenditures of the transportation excise
2 revenues comply with section 28-6392, subsection B.

3 (b) Reviews projects completed to date and projects to be completed
4 during the remaining years in which a transportation excise tax is in effect.
5 Within six months after each review period the auditor general shall present
6 a report to the speaker of the house of representatives and the president of
7 the senate detailing findings and making recommendations. If the parameters
8 of the performance audit are set by the citizens transportation oversight
9 committee, the auditor general shall also present the report to the citizens
10 transportation oversight committee.

11 (c) Reviews, determines, reports and makes recommendations to the
12 speaker of the house of representatives and the president of the senate
13 whether the distribution of highway user revenues complies with title 28,
14 chapter 18, article 2. If the parameters of the performance audit are set by
15 the citizens transportation oversight committee, the auditor general shall
16 also present the report to the citizens transportation oversight committee.

17 7. If requested by the committee, conduct performance audits of
18 counties and incorporated cities and towns receiving highway user revenue
19 fund monies pursuant to title 28, chapter 18, article 2 to determine if the
20 monies are being spent as provided in section 28-6533, subsection B.

21 8. Perform special audits designated pursuant to law if the auditor
22 general determines that there are adequate monies appropriated for the
23 auditor general to complete the audit. If the auditor general determines the
24 appropriated monies are inadequate, the auditor general shall notify the
25 committee.

26 9. Beginning on July 1, 2001, establish a school-wide audit team in
27 the office of the auditor general to conduct performance audits and monitor
28 school districts to determine the percentage of every dollar spent in the
29 classroom by a school district. The performance audits shall determine
30 whether school districts that receive monies from the Arizona structured
31 English immersion fund established by section 15-756.04 and the statewide
32 compensatory instruction fund established by section 15-756.11 are in
33 compliance with title 15, chapter 7, article 3.1. The auditor general shall
34 determine, through random selection, the school districts to be audited each
35 year, subject to review by the joint legislative audit committee. A school
36 district that is subject to an audit pursuant to this paragraph shall notify
37 the auditor general in writing as to whether the school district agrees or
38 disagrees with the findings and recommendations of the audit and whether the
39 school district will implement the findings and recommendations, implement
40 modifications to the findings and recommendations or refuse to implement the
41 findings and recommendations. The school district shall submit to the
42 auditor general a written status report on the implementation of the audit
43 findings and recommendations every six months for two years after an audit
44 conducted pursuant to this paragraph. The auditor general shall review the
45 school district's progress toward implementing the findings and

1 recommendations of the audit every six months after receipt of the district's
2 status report for two years. The auditor general may review a school
3 district's progress beyond this two-year period for recommendations that have
4 not yet been implemented by the school district. The auditor general shall
5 provide a status report of these reviews to the joint legislative audit
6 committee. The school district shall participate in any hearing scheduled
7 during this review period by the joint legislative audit committee or by any
8 other legislative committee designated by the joint legislative audit
9 committee.

10 10. Perform the duties prescribed in section 9-514.01 either directly
11 or by contract with a certified public accountant.

12 B. The auditor general may:

13 1. Subject to approval by the committee, adopt rules necessary to
14 administer the duties of the office.

15 2. Hire consultants to conduct the studies required by subsection A,
16 paragraphs 6 and 7 of this section.

17 C. If approved by the committee the auditor general may charge a
18 reasonable fee for the cost of performing audits or providing accounting
19 services for auditing federal funds, special audits or special services
20 requested by political subdivisions of the state. Monies collected pursuant
21 to this subsection shall be deposited in the audit services revolving fund.

22 D. The department of transportation, the board of supervisors of a
23 county that has approved a county transportation excise tax as provided in
24 section ~~42-6104~~, 42-6106 or 42-6107 and the governing bodies of counties,
25 cities and towns receiving highway user revenue fund monies shall cooperate
26 with and provide necessary information to the auditor general or the auditor
27 general's consultant.

28 E. The department of transportation shall reimburse the auditor
29 general as follows, and the auditor general shall deposit the reimbursed
30 monies in the audit services revolving fund:

31 1. For the cost of conducting the studies or hiring a consultant to
32 conduct the studies required by subsection A, paragraph 6, subdivisions (a)
33 and (b) of this section, from monies collected pursuant to a county
34 transportation excise tax levied pursuant to section ~~42-6104~~, 42-6106 or
35 42-6107.

36 2. For the cost of conducting the studies or hiring a consultant
37 pursuant to subsection A, paragraph 6, subdivision (c) and paragraph 7 of
38 this section, from the Arizona highway user revenue fund.

39 Sec. 13. Section 41-1516, Arizona Revised Statutes, is amended to
40 read:

41 41-1516. Healthy forest enterprise incentives; definitions

42 A. The Arizona commerce authority shall:

43 1. Implement a program to encourage counties, cities and towns to
44 provide local incentives to economic enterprises that promote forest health
45 in this state.

1 2. Identify and certify to the department of revenue the names of and
2 relevant information relating to qualified businesses for the purposes of
3 available state tax incentives for economic enterprises that promote forest
4 health in this state.

5 B. To qualify for state tax incentives pursuant to this section, a
6 business:

7 1. Must be primarily engaged in a qualifying project. The business
8 shall submit to the authority evidence that it is engaged in a qualifying
9 project as follows:

10 (a) The business operation must enhance or sustain forest health,
11 sustain or recover watershed or improve public safety.

12 (b) If the qualifying forest product is on federal land, the business
13 shall submit a letter from the federal agency administering the land, or
14 official records or documents produced in connection with the project,
15 stating that the business is primarily engaged in the business of harvesting
16 or initial processing of qualifying forest products for commercial use as
17 follows:

18 (i) At least seventy per cent of the harvested or processed products,
19 measured by weight, must be qualifying forest products.

20 (ii) At least seventy-five per cent of the qualifying forest products,
21 measured by weight, must be harvested from sources in this state.

22 (c) If the qualifying forest product is not on federal land, the
23 business shall submit a letter from the state forester stating that the
24 business is primarily engaged in the business of harvesting or initial
25 processing of qualifying forest products for commercial use as follows:

26 (i) At least seventy per cent of the harvested or processed products
27 must be qualifying forest products.

28 (ii) At least seventy-five per cent of the harvested or processed
29 products must be from areas in this state.

30 (d) If the business is engaged in transporting qualifying forest
31 products, it must submit a letter from the state forester or United States
32 forest service, or official records or documents produced in connection with
33 the project, stating that all of the qualifying forest products it transports
34 are harvested from areas in this state. In addition, the business must
35 submit evidence to the authority that at least seventy-five per cent of the
36 mileage traveled by its units each year are for transporting qualifying
37 forest products from or to qualifying projects described in subdivision (b)
38 or (c) of this paragraph, unless a lower mileage is due to forest closures or
39 weather conditions that are beyond the control of the business.

40 2. Must employ at least three permanent full-time employees.

41 3. Must agree to furnish to the authority information relating to the
42 amount of state tax benefits that the business receives each year.

43 4. Must enter into a memorandum of understanding with the authority
44 containing:

1 (a) Employment goals. Each year the business must report in writing
2 to the authority its performance in achieving the goals.

3 (b) A commitment to continue in business and use the qualifying
4 equipment primarily on qualifying projects in this state as described in
5 paragraph 1 of this subsection, other than for reasons beyond the control of
6 the business. The authority shall consult with the department of revenue in
7 designing the memorandum of understanding to incorporate the legal
8 qualifications for the available tax incentives and shall include the
9 requirement that any qualifying equipment that is purchased or leased free of
10 transaction privilege or use tax must continue to be used in this state for
11 the term of the memorandum of understanding or the duration of its
12 operational life, whichever is shorter.

13 (c) Provisions considered necessary by the authority to ensure the
14 competency and responsibility of businesses that qualify under this section,
15 including registration or other accreditation with trade and professional
16 organizations and compliance with best management and operational practices
17 used by governmental agencies in awarding forestry contracts.

18 (d) The authorization for the authority to terminate, adjust or
19 recapture all or part of the tax benefits provided to the business on
20 noncompliance with the law, noncompliance with the terms of the memorandum or
21 violation of the terms of any contracts with the federal or state government
22 relating to the qualifying project. The authority shall notify the
23 department of revenue of the conditions of noncompliance. The department of
24 revenue may also terminate the certification if it obtains information
25 indicating a failure to qualify and comply. The department of revenue may
26 require the business to file appropriate amended tax returns or to file
27 appropriate use tax returns reflecting the recapture of the direct or
28 indirect tax benefits.

29 5. Must submit a copy of the certification to the department of
30 revenue for approval before using the certification for purposes of any tax
31 incentive. The department of revenue shall review and approve the
32 certification in a timely manner if the business is in good standing with the
33 department and is not delinquent in the payment of any tax collected by the
34 department. A failure to approve or deny the certification within sixty days
35 after the date the business submits it to the department constitutes approval
36 of the certification.

37 C. For the purposes of section 42-5075, subsection B, paragraph 19-
38 18, the authority shall certify prime contractors that contract for the
39 construction of any building, or other structure, project, development or
40 improvement owned by a qualified business for purposes of a qualifying
41 project described in subsection B, paragraph 1 of this section.

42 D. To obtain and maintain certification under this section, a business
43 must:

44 1. Apply to the authority.

1 2. Submit and retain copies of all required information, including
2 information relating to the actual or projected number of employees in this
3 state.

4 3. Allow inspections and audits to verify the qualification and
5 accuracy of information submitted to the authority.

6 E. Certification under this section is valid for twelve calendar
7 months from the date of issuance. A business must apply for recertification
8 at least thirty days before the current certification expires. The
9 application for recertification shall be in a form prescribed by the
10 authority and shall confirm that the business is continuing in a qualifying
11 project and is in compliance with all requirements prescribed for
12 certification.

13 F. Within sixty days after receiving a complete and correct
14 application and all required information as prescribed by this section, the
15 authority shall grant or deny certification and give written notice by
16 certified mail to the applicant. The applicant is certified as a qualified
17 business on the date the notice of certification is delivered to the
18 applicant. A failure to respond within sixty days after receiving a complete
19 and correct application constitutes approval of the application.

20 G. The certification shall state an effective date with respect to
21 each authorized tax incentive which, in each case, must be at the start of a
22 taxable year or taxable period.

23 H. On or before March 1 of each year, each qualifying business shall
24 make a report to the authority on all business activity in the preceding
25 calendar year. Business information contained in the reports is confidential
26 and shall not be disclosed to the public except as provided by this section
27 and except that a copy of the report shall be transmitted to the department
28 of revenue. The report shall be in a form prescribed by the authority and
29 include:

30 1. Information prescribed by the authority with respect to both
31 qualifying projects and other projects and business activity that do not
32 qualify for purposes of this section.

33 2. Employment information necessary to confirm eligibility for income
34 tax credits as prescribed by sections 43-1076 and 43-1162.

35 3. The quantity, measured by weight, of qualifying forest products
36 harvested, transported or processed.

37 I. On or before May 1 of each year, the authority shall report to the
38 joint legislative budget committee:

39 1. The quantity, measured by weight, of qualifying forest products
40 reported by harvesters, by transporters and by processors in the preceding
41 calendar year.

42 2. The number of new full-time employees hired in qualified employment
43 positions in this state in the preceding calendar year and reported for tax
44 credit purposes.

1 3. The total number of all full-time employees employed in qualified
2 employment positions in this state in the preceding calendar year and
3 reported for tax credit purposes.

4 J. For purposes of administering and ensuring compliance with this
5 section, agents of the authority may enter, and a qualified business shall
6 allow access to, a qualifying project site at reasonable times and on
7 reasonable notice to:

8 1. Inspect the facilities at the site.

9 2. Obtain factual data and records pertinent to and required by law to
10 be kept for purposes of tax incentives.

11 3. Otherwise ascertain compliance with law and the terms of the
12 memorandum of understanding.

13 K. The authority shall revoke the business' certification and notify
14 the department of revenue and county assessor if either:

15 1. Within thirty days after a formal request from the authority or the
16 department of revenue the business fails or refuses to provide the
17 information or access for inspections required by this section.

18 2. The business no longer meets the terms and conditions required for
19 qualification for the applicable tax incentives.

20 L. For the purposes of this section:

21 1. "Forest health" means the degree to which the integrity of the
22 forest is sustained, including reducing the risk of catastrophic wildfire and
23 destructive insect infestation, benefiting wildland habitats, watersheds and
24 communities.

25 2. "Harvesting" means all operations relating to felling or otherwise
26 removing trees and other forest plant growth and preparing them for transport
27 for subsequent processing.

28 3. "Initial processing" means:

29 (a) The first change, after harvest, in the physical structure of
30 qualifying forest products removed from a qualifying project into a
31 marketable commercial product or component of a product that has commercial
32 value to a consumer or purchaser and that is ready to be used with or without
33 further altering its form.

34 (b) Burning qualifying forest products in the process of commercial
35 electrical generation or commercial thermal energy production for heating or
36 cooling, regardless of the physical structure of the forest product before
37 burning.

38 4. "Qualifying equipment" means equipment used directly in the
39 harvesting or initial processing of qualifying forest products removed from a
40 qualifying project. Qualifying equipment does not include self-propelled
41 vehicles required to be licensed by this state, but may include other
42 licensed vehicles as provided by this paragraph. Qualifying equipment
43 includes:

44 (a) Forest thinning and residue removal equipment, including mulching
45 and masticating equipment, feller-bunchers, skidders, log loaders, portable

1 chippers and grinders, slash bundlers, delimbers, log trailers, chip trailers
2 and other trailers that are uniquely designed for handling forest products
3 and that are licensed for operation on public highways.

4 (b) Forest residue receiving and handling equipment, including truck
5 dumpers, log unloaders, scales, log decking facilities and equipment and chip
6 pile facilities.

7 (c) Sorting and processing equipment, including portable and
8 stationary log loaders, front end loaders, fork lifts and cranes, chippers
9 and grinders, screens, decks and debarkers, saws and sawmill equipment,
10 firewood processing, wood residue baling and bagging equipment, kilns,
11 planing and molding equipment and laminating and joining equipment.

12 (d) Forest waste and residue disposal and processing equipment,
13 including:

14 (i) Processing and sizing equipment, hogs, chippers, screens,
15 pelletizers and wood splitters.

16 (ii) Transporting and handling equipment, including loaders,
17 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

18 (iii) Waste use equipment, including fuel feed, storage bins, boilers
19 and combustors.

20 (iv) Waste project use equipment, including generators, switchgear and
21 substations and on-site distribution systems.

22 (v) Generated waste disposal equipment, including ash silos and
23 wastewater treatment and disposal equipment.

24 (vi) Shop and maintenance equipment and major spares having a value of
25 more than five thousand dollars each.

26 5. "Qualifying forest products" means dead standing and fallen timber,
27 and forest thinnings associated with the harvest of small diameter timber,
28 slash, wood chips, peelings, brush and other woody vegetation, removed from
29 federal, state and other public forest land and from private forest land.

30 6. "Qualifying project" means harvesting, transporting or the initial
31 processing of qualifying forest products as required for certification
32 pursuant to this section.

33 Sec. 14. Section 41-1525, Arizona Revised Statutes, is amended to
34 read:

35 41-1525. Arizona quality jobs incentives; tax credits for new
36 employment; qualifications; definitions

37 A. ~~The owner of~~ THE OWNER OF a business ~~or an insurer~~ located in this
38 state before July 2017 is eligible for income tax credits under section
39 43-1074 or 43-1161 or an insurance premium tax credit under section 20-224.03
40 for net increases IN FULL-TIME EMPLOYEES RESIDING IN THIS STATE AND HIRED in
41 qualified employment positions IN THIS STATE.

42 B. To qualify under this section, AND SUBJECT TO PREAPPROVAL BY THE
43 AUTHORITY, the ~~owner~~ BUSINESS must MEET EITHER OF THE FOLLOWING REQUIREMENTS
44 in the ~~first~~ taxable year FOR EACH LOCATION OF THE BUSINESS FOR WHICH it
45 claims a FIRST YEAR tax credit:

1 1. Invest at least five million dollars of capital investment and
2 create at least twenty-five new qualified employment positions AT A LOCATION
3 within the exterior boundaries of a city or town that has a population of
4 fifty thousand persons or more and that is located in a county that has a
5 population of eight hundred thousand persons or more.

6 2. Invest at least one million dollars of capital investment and
7 create at least five qualified employment positions in any other location.

8 C. No more than four hundred new jobs per employer qualify for first
9 year credits each year, and no more than ten thousand new jobs for all
10 employers qualify for first year credits each year.

11 D. To claim a tax credit, the ~~owner~~ BUSINESS must:

12 1. Certify to the department of revenue or the department of
13 insurance, as applicable, on or before the due date of the tax return,
14 including any extensions for the year for which the credit is claimed, in a
15 form prescribed by the department, including electronic media, information
16 that the department may require, including the ownership interests of
17 co-owners of the business if the business is a partnership, limited liability
18 company or an S corporation, and the following information for each employee
19 in the location:

20 (a) The date of initial employment.

21 (b) The number of hours worked during the year.

22 (c) Whether the position was full-time.

23 (d) The employee's annual compensation.

24 (e) The total cost of health insurance for the employee and the cost
25 paid by the employer.

26 (f) Other information required by the department.

27 2. Report and certify to the authority the following information, and
28 provide supporting documentation, on a form and in a manner approved by the
29 authority, and as specified in subsection E of this section, for each year in
30 which the taxpayer earned and claimed or used credits or is carrying forward
31 amounts from previously earned and claimed credits:

32 (a) The business name and mailing address and any other contact
33 information requested by the authority.

34 (b) The physical address of the business location.

35 (c) The average hourly wage and the total amount of compensation paid
36 to employees qualified for the credit and for all employees.

37 (d) The total number of qualified employment positions and the amount
38 of income tax or premium tax credits qualified for in the taxable year.

39 (e) The estimated amount of tax credits to be used in the taxable year
40 to offset tax liability.

41 (f) The estimated amount of tax credits to be available for
42 carryforward in the taxable year and the year in which the credits expire.

43 (g) The number of jobs and the amount of credits earned and claimed on
44 the prior year's tax return.

1 (h) The amount of credits used to offset tax liabilities on the prior
2 year's tax return.

3 (i) The amount of credits available for carryforward as reported on
4 the prior year's tax return and the year the credits expire.

5 (j) Capital investment made during the taxable year and the preceding
6 taxable year.

7 (k) Other information necessary for the management and reporting of
8 the incentives under this section.

9 3. For any year in which the taxpayer is claiming first year credits,
10 report and certify the following additional information and provide
11 supporting documentation to the authority on a form and in a manner approved
12 by the authority, and as specified in subsection E of this section:

13 (a) That the NET increase in the number of qualified employment
14 positions for which credit is sought is the least of:

15 (i) The total number of filled qualified employment positions created
16 at the BUSINESS location during the taxable year.

17 (ii) The difference between the average number of full-time employees
18 IN THIS STATE in the current taxable year and the average number of full-time
19 employees IN THIS STATE during the immediately preceding taxable year.

20 (iii) Four hundred qualified employment positions per taxpayer each
21 year.

22 (b) That all employees filling a qualified employment position were
23 employed for at least ninety days during the first taxable year. EMPLOYEES
24 HIRED IN THE LAST NINETY DAYS OF THE TAXABLE YEAR ARE EXCLUDED FOR THAT
25 TAXABLE YEAR AND ARE CONSIDERED TO BE NEW EMPLOYEES IN THE FOLLOWING TAXABLE
26 YEAR, BUT QUALIFIED EMPLOYMENT POSITIONS ARE CONSIDERED TO BE CREATED FOR THE
27 PURPOSES OF SUBSECTION B OF THIS SECTION IN THE TAXABLE YEAR THE EMPLOYEE IS
28 ACTUALLY HIRED.

29 (c) That none of the employees filling qualified employment positions
30 were employed by the taxpayer during the twelve months before the current
31 date of hire except for those relocating to this state.

32 (d) That all employees for whom second and third year credits are
33 claimed are in qualified employment positions for which first year credits
34 were allowed and claimed by the taxpayer on the original first and second
35 year tax returns.

36 (e) That all employees for whom credits are taken performed their job
37 duties primarily at the designated locations of the business.

38 E. To qualify for first year credits, the report and certification
39 prescribed by subsection D, paragraphs 2 and 3 of this section must be filed
40 with the authority by the earlier of six months after the end of the taxable
41 year in which the qualified employment positions were created or by the date
42 the tax return is filed for the taxable year in which the qualified
43 employment positions were created. To qualify for second year credits, the
44 report and certification prescribed by subsection D, paragraph 2 of this
45 section must be filed with the authority by the earlier of six months after

1 the end of the taxable year or the date the tax return is filed for the
2 taxable year in which the second year credits are allowable. To qualify for
3 third year credits, the report and certification prescribed by subsection D,
4 paragraph 2 of this section must be filed with the authority by the earlier
5 of six months after the end of the taxable year or the date the tax return is
6 filed for the taxable year in which the third year credits are allowable.

7 F. Any information submitted to the authority under subsection D,
8 paragraph 2, subdivisions (e) through (j) of this section is exempt from
9 title 39, chapter 1, article 2 and considered to be confidential and is not
10 subject to disclosure except:

11 1. To the extent that the person or organization that provided the
12 information consents to the disclosure.

13 2. To the department of revenue for use in tax administration.

14 G. Documents filed with the authority, the department of insurance and
15 the department of revenue under subsection D of this section shall contain
16 either a sworn statement or certification, signed by an officer of the
17 company under penalty of perjury, that the information contained is true and
18 correct according to the best belief and knowledge of the person submitting
19 the information after a reasonable investigation of the facts. If the
20 document contains information that is materially false, the taxpayer is
21 ineligible for the tax credits described under subsection A of this section
22 and is subject to recovery of the amount of tax credits allowed in preceding
23 taxable years based on the false information, plus penalties and interest.

24 H. The authority may make site visits to a taxpayer's facilities if it
25 is necessary to further document or clarify reported information. The
26 taxpayer must freely provide the access.

27 I. The authority by rule may prescribe PREAPPROVAL REQUIREMENTS AND
28 additional reporting requirements for taxpayers who claim tax credits
29 pursuant to this section.

30 J. On or before September 30 of each year, the authority shall
31 transmit a report to the governor, the president of the senate, the speaker
32 of the house of representatives and the chairpersons of the senate finance
33 committee and the house of representatives ways and means committee and
34 provide a copy of the report to the secretary of state. The report shall
35 include the following information:

36 1. The business names, locations, number of employees and amount of
37 compensation paid to employees qualifying for income tax credits as reported
38 to the authority.

39 2. The amount of capital investment, made during the preceding fiscal
40 year and cumulatively.

41 3. The total amount of income tax credits allowed for the preceding
42 taxable year and the number of qualified employment positions for which
43 credits were claimed pursuant to sections 43-1074 and 43-1161.

44 K. For the purposes of this section:

1 1. "Capital investment" means an expenditure to acquire, lease or
2 improve property that is used in operating a business, including land,
3 buildings, machinery and fixtures.

4 ~~2. "Primarily" means more than seventy-five per cent of the square~~
5 ~~footage of the location or locations.~~

6 2. "LOCATION" MEANS A SINGLE PARCEL OR CONTIGUOUS PARCELS OF OWNED OR
7 LEASED LAND IN THIS STATE, THE STRUCTURES AND PERSONAL PROPERTY CONTAINED ON
8 THE LAND OR ANY PART OF THE STRUCTURES OCCUPIED BY THE OWNER. PARCELS THAT
9 ARE SEPARATED ONLY BY A PUBLIC THOROUGHFARE OR RIGHT-OF-WAY ARE CONSIDERED TO
10 BE CONTIGUOUS BUT PARCELS THAT ARE IN LOCATIONS RESPECTIVELY DESCRIBED BY
11 SUBSECTION B, PARAGRAPHS 1 AND 2 OF THIS SECTION ARE NOT CONSIDERED TO BE
12 CONTIGUOUS.

13 3. "Qualified employment position" means employment that meets the
14 following requirements:

15 (a) The position consists of at least one thousand seven hundred fifty
16 hours per year of full-time permanent employment.

17 (b) The job duties are performed primarily at the location or
18 locations of the business IN THIS STATE.

19 (c) The employment provides health insurance coverage for the employee
20 for which the employer pays at least sixty-five per cent of the premium or
21 membership cost. If the business is self-insured, the employer pays at least
22 sixty-five per cent of a predetermined fixed cost per employee for an
23 insurance program that is payable whether or not the employee has filed
24 claims.

25 (d) The employer pays compensation at least equal to the median wage
26 by county as computed annually by the authority.

27 Sec. 15. Section 42-1101, Arizona Revised Statutes, is amended to
28 read:

29 42-1101. Application

30 This article and chapter 2 of this title apply generally to the
31 administration of income tax, withholding tax, transaction privilege tax,
32 telecommunication services excise tax, county excise taxes and any other
33 privilege excise tax administered by the department, severance tax, use tax,
34 luxury tax, ~~rental occupancy tax, estate tax,~~ tax on water use and jet fuel
35 excise and use tax.

36 Sec. 16. Section 42-1107, Arizona Revised Statutes, is amended to
37 read:

38 42-1107. Extension of time for filing returns

39 A. The department, pursuant to administrative rule, may grant an
40 automatic extension of time for filing an income tax return under title 43 if
41 at least ninety per cent of the tax liability disclosed by the taxpayer's
42 return for the reporting period is paid and if the request for extension is
43 received or mailed on or before the date the return is otherwise due to be
44 filed. If at least ninety per cent of the tax liability disclosed by the
45 taxpayer's return for the reporting period has not been paid at the time of

1 filing for the extension, the taxpayer is subject to a penalty of one-half of
 2 one per cent of the tax not paid for each thirty day period or fraction of a
 3 thirty day period elapsing between the date the return is otherwise due to be
 4 filed and the date the tax is paid, not to exceed a total of twenty-five per
 5 cent. If a taxpayer is subject to both of the penalties prescribed under
 6 this section and section 42-1125, the maximum combined penalty that may be
 7 imposed on the taxpayer under both sections shall not exceed twenty-five per
 8 cent of the tax found to be remaining due. A taxpayer is not subject to the
 9 penalties prescribed under section 42-1125, subsection D if the taxpayer is
 10 subject to the penalties prescribed under this section. If in its judgment
 11 good cause exists, the department may grant a further extension or extensions
 12 of time for filing the return pursuant to administrative rule. No extension
 13 or extensions granted under this subsection may aggregate more than six
 14 months from the due date provided for the filing of returns.

15 B. If the taxpayer has been granted an extension or extensions of time
 16 within which to file a federal income tax return for any taxable year, the
 17 taxpayer is deemed to have been granted the same extension of time for filing
 18 the Arizona income tax return if the taxpayer has paid at least ninety per
 19 cent of the tax liability disclosed by the taxpayer's return for the
 20 reporting period. If at the time the taxpayer has been granted a federal
 21 extension or extensions the taxpayer is required to make the payment of at
 22 least ninety per cent under this section, the payment shall be in a manner
 23 prescribed by the department.

24 ~~C. The department, for good cause, may grant a reasonable extension of~~
 25 ~~time for filing an Arizona estate tax return. A request for extension shall~~
 26 ~~be in a form prescribed by the department.~~

27 D. C. The department, for good cause, may extend the time for making
 28 any other return required by chapter 5, articles 1, 4 and 5 of this title,
 29 and may grant such reasonable additional time in which to make the return as
 30 it deems proper, but the time for filing the return shall not be extended
 31 beyond the first day of the third month next succeeding the regular due date
 32 of the return.

33 Sec. 17. Section 42-1125, Arizona Revised Statutes, is amended to
 34 read:

35 42-1125. Civil penalties; definition

36 A. If a taxpayer fails to make and file a return for a tax
 37 administered pursuant to this article on or before the due date of the return
 38 or the due date as extended by the department, unless it is shown that the
 39 failure is due to reasonable cause and not due to wilful neglect, four and
 40 one-half per cent of the tax required to be shown on such return shall be
 41 added to the tax for each month or fraction of a month elapsing between the
 42 due date of the return and the date on which it is filed. The total penalty
 43 shall not exceed twenty-five per cent of the tax found to be remaining due.
 44 The penalty so added to the tax is due and payable on notice and demand from
 45 the department. For the purpose of computing the penalty imposed under this

1 subsection, the amount required to be shown as tax on a return shall be
2 reduced by the amount of any part of the tax which is paid on or before the
3 beginning of such month and by the amount of any credit against the tax which
4 may be claimed on the return. If the amount required to be shown as tax on a
5 return is less than the amount shown as tax on such return the penalty
6 described in this subsection shall be applied by substituting such lower
7 amount.

8 B. If a taxpayer fails or refuses to file a return on notice and
9 demand by the department, the taxpayer shall pay a penalty of twenty-five per
10 cent of the tax, which is due and payable on notice and demand by the
11 department, in addition to any penalty prescribed by subsection A of this
12 section, unless it is shown that the failure is due to reasonable cause and
13 not due to wilful neglect. This penalty is payable on notice and demand from
14 the department.

15 C. If a taxpayer fails or refuses to furnish any information requested
16 in writing by the department, the department may add a penalty of twenty-five
17 per cent of the amount of any deficiency tax assessed by the department
18 concerning the assessment of which the information was required, unless it is
19 shown that the failure is due to reasonable cause and not due to wilful
20 neglect.

21 D. If a person fails to pay the amount shown as tax on any return
22 within the time prescribed, a penalty of one-half of one per cent, not to
23 exceed a total of ten per cent, shall be added to the amount shown as tax for
24 each month or fraction of a month during which the failure continues, unless
25 it is shown that the failure is due to reasonable cause and not due to wilful
26 neglect. If the department determines that the person's failure to pay was
27 due to reasonable cause and not due to wilful neglect and that a payment
28 agreement pursuant to section 42-2057 is appropriate, the department shall
29 not impose the penalty unless the taxpayer fails to comply with the payment
30 agreement. If the taxpayer is also subject to a penalty under subsection A
31 of this section for the same tax period, the total penalties under subsection
32 A of this section and this subsection shall not exceed twenty-five per cent.
33 For the purpose of computing the penalty imposed under this subsection:

34 1. The amount shown as tax on a return shall be reduced by the amount
35 of any part of the tax that is paid on or before the beginning of that month
36 and by the amount of any credit against the tax that may be claimed on the
37 return.

38 2. If the amount shown as tax on a return is greater than the amount
39 required to be shown as tax on that return, the penalty shall be applied by
40 substituting the lower amount.

41 E. If a person fails to pay any amount required to be shown on any
42 return that is not so shown within twenty-one calendar days after the date of
43 notice and demand, a penalty of one-half of one per cent, not to exceed a
44 total of ten per cent, shall be added to the amount of tax for each month or
45 fraction of a month during which the failure continues, unless it is shown

1 that the failure is due to reasonable cause and not due to wilful neglect.
2 If the taxpayer is also subject to penalty under subsection A of this section
3 for the same tax period, the total penalties under subsection A of this
4 section and this subsection shall not exceed twenty-five per cent. For the
5 purpose of computing the penalty imposed under this subsection, any amount
6 required to be shown on any return shall be reduced by the amount of any part
7 of the tax that is paid on or before the beginning of that month and by the
8 amount of any credit against the tax that may be claimed on the return.

9 F. In the case of a deficiency, for which a determination is made of
10 an additional amount due, which is due to negligence but without intent to
11 defraud, the person shall pay a penalty of ten per cent of the amount of the
12 deficiency.

13 G. If part of a deficiency is due to fraud with intent to evade tax,
14 fifty per cent of the total amount of the tax, in addition to the deficiency,
15 interest and other penalties provided in this section, shall be assessed,
16 collected and paid as if it were a deficiency.

17 H. If the amount, whether determined by the department or the
18 taxpayer, required to be withheld by the employer pursuant to title 43,
19 chapter 4 is not paid to the department on or before the date prescribed for
20 its remittance, the department may add a penalty of twenty-five per cent of
21 the amount required to be withheld and paid, unless it is shown that the
22 failure is due to reasonable cause and not due to wilful neglect.

23 I. A person who, with or without intent to evade any requirement of
24 this article or any lawful administrative rule of the department of revenue
25 under this article, fails to file a return or to supply information required
26 under this article or who, with or without such intent, makes, prepares,
27 renders, signs or verifies a false or fraudulent return or statement or
28 supplies false or fraudulent information shall pay a penalty of not more than
29 one thousand dollars. This penalty shall be recovered by the department of
30 law in the name of this state by an action in any court of competent
31 jurisdiction.

32 J. If the taxpayer files what purports to be a return of any tax
33 administered pursuant to this article but ~~which~~ THAT is frivolous or ~~which~~
34 THAT is made with the intent to delay or impede the administration of the tax
35 laws, that person shall pay a penalty of five hundred dollars.

36 K. If a taxpayer who is required to file or provide an information
37 return under this title or title 43 fails to file the return at the
38 prescribed time or files a return ~~which~~ THAT fails to show the information
39 required, that taxpayer shall pay a penalty of one hundred dollars for each
40 month or fraction of a month during which the failure continues unless it is
41 shown that the failure is due to reasonable cause and not due to wilful
42 neglect. The total penalties under this subsection shall not exceed five
43 hundred dollars.

44 L. If it appears to the superior court that proceedings before it have
45 been instituted or maintained by a taxpayer primarily for delay or that the

1 taxpayer's position is frivolous or groundless, the court may award damages
2 in an amount not to exceed one thousand dollars to this state. Damages so
3 awarded shall be collected as a part of the tax.

4 M. A person who is required under section 43-413 to furnish a
5 statement to an employee and who wilfully furnishes a false or fraudulent
6 statement, or who wilfully fails to furnish a statement required by section
7 43-413, is for each such failure subject to a penalty of fifty dollars.

8 N. A person who is required to collect or truthfully account for and
9 pay a tax administered pursuant to this article, including any luxury
10 privilege tax, and who wilfully fails to collect the tax or truthfully
11 account for and pay the tax, or wilfully attempts in any manner to evade or
12 defeat the tax or its payment, is, in addition to other penalties provided by
13 law, liable for a penalty equal to the total amount of the tax evaded, not
14 collected or not accounted for and paid. Except as provided in subsections
15 T, U and V of this section, no other penalty under this section relating to
16 failure to pay tax may be imposed for any offense to which this subsection
17 applies.

18 O. For reporting periods beginning from and after February 28, 2011,
19 if a taxpayer who is required under section 42-1129 to make payment by
20 electronic funds transfer fails to do so, that taxpayer shall pay a penalty
21 of five per cent of the amount of ~~tax due on the return~~ THE PAYMENT NOT MADE
22 BY ELECTRONIC FUNDS TRANSFER unless it is shown that the failure is due to
23 reasonable cause and not due to wilful neglect.

24 P. Unless due to reasonable cause and not to wilful neglect:

25 1. A person who fails to provide that person's taxpayer identification
26 number in any return, statement or other document as required by section
27 42-1105, subsection A shall pay a penalty of five dollars for each such
28 failure.

29 2. A person, when filing any return, statement or other document for
30 compensation on behalf of a taxpayer, who fails to include that person's own
31 taxpayer identification number and the taxpayer's identification number shall
32 pay a penalty of fifty dollars for each such failure.

33 3. A person, when filing any return, statement or other document
34 without compensation on behalf of a taxpayer, who fails to include that
35 person's own taxpayer identification number and the taxpayer's identification
36 number is not subject to a penalty.

37 No other penalty under this section may be imposed if the only violation is
38 failure to provide taxpayer identification numbers.

39 Q. If a taxpayer fails to pay the full amount of estimated tax
40 required by title 43, chapter 5, article 6, a penalty is assessed equal to
41 the amount of interest that would otherwise accrue under section 42-1123 on
42 the amount not paid for the period of nonpayment, not exceeding ten per cent
43 of the amount not paid. The penalty prescribed by this subsection is in lieu
44 of any other penalty otherwise prescribed by this section and in lieu of
45 interest prescribed by section 42-1123.

1 R. The department of law, with the consent of the department of
2 revenue, may compromise any penalty for which it may bring an action under
3 this section.

4 S. Penalties shall not be assessed under subsection D of this section
5 on additional amounts of tax paid by a taxpayer at the time the taxpayer
6 voluntarily files an amended return. This subsection does not apply if:

7 1. The taxpayer is under audit by the department.

8 2. The amended return was filed on demand or request by the
9 department.

10 3. The total additional tax paid and due for the tax period represents
11 a substantial understatement of tax liability. For the purposes of this
12 paragraph, there is a substantial understatement of tax for any tax period if
13 the amount of the understatement for the tax period exceeds the greater of
14 ten per cent of the actual tax liability for the tax period or two thousand
15 dollars.

16 T. In addition to other penalties provided by law, a person who
17 knowingly and intentionally does not comply with any requirement under
18 chapter 3, article 5 of this title relating to cigarettes shall pay a penalty
19 of one thousand dollars. A person who knowingly and intentionally does not
20 pay any luxury tax that relates to cigarettes imposed by chapter 3 of this
21 title shall pay a penalty that is equal to ten per cent of the amount of the
22 unpaid tax.

23 U. A cigarette manufacturer, cigarette importer or cigarette
24 distributor, as defined in section 42-3001, who knowingly and intentionally
25 sells or possesses cigarettes with false manufacturing labels or cigarettes
26 with counterfeit tax stamps, or who obtains cigarettes through the use of a
27 counterfeit license, shall pay the following penalties:

28 1. For a first violation involving two thousand or more cigarettes,
29 one thousand dollars.

30 2. For a subsequent violation involving two thousand or more
31 cigarettes, five thousand dollars.

32 V. The civil penalties in this section are in addition to any civil
33 penalty under chapter 3, article 5 of this title.

34 W. For the purposes of this section, and only as applied to the taxes
35 imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2 and 3
36 of this title, "reasonable cause" means a reasonable basis for the taxpayer
37 to believe that the tax did not apply to the business activity or the
38 storage, use or consumption of the taxpayer's tangible personal property in
39 this state.

40 Sec. 18. Section 42-2001, Arizona Revised Statutes, is amended to
41 read:

42 42-2001. Definitions

43 In this article, unless the context otherwise requires:

44 ~~1. "Affidavits" includes forms received to report nontaxable estates.~~

45 ~~2.~~ 1. "Confidential information":

1 (a) Includes the following information whether it concerns individual
2 taxpayers or is aggregate information for specifically identified taxpayers:

3 (i) Returns and reports filed with the department for income tax,
4 withholding tax, transaction privilege tax, luxury tax, use tax, rental
5 occupancy tax, property tax, estate tax and severance tax.

6 ~~(ii) Affidavits, reports or other information filed relating to~~
7 ~~taxable and nontaxable estates.~~

8 ~~(iii)~~ (ii) Applications for transaction privilege licenses, luxury
9 tax licenses, use tax licenses and withholding licenses.

10 ~~(iv)~~ (iii) Information discovered concerning taxes and receipts by
11 the department, whether or not by compulsory process.

12 ~~(v)~~ (iv) Return information obtained from the United States internal
13 revenue service and United States bureau of alcohol, tobacco and firearms.

14 ~~(vi)~~ (v) Information supplied at the special request of the
15 department by a taxpayer which the taxpayer requests to be held in
16 confidence.

17 ~~(vii)~~ (vi) Guidelines, standards or procedures that are established
18 by the department for, or other information relating to, selecting returns or
19 taxpayers for examination or settling or compromising any tax liability.

20 ~~(viii)~~ (vii) A taxpayer's identity, the nature, source or amount of
21 the taxpayer's income, payments, receipts, deductions, exemptions, credits,
22 assets, liabilities, net worth, tax liability, tax withheld, deficiencies,
23 overassessments or tax payments, whether the taxpayer's return was, is being
24 or will be examined or subject to investigation, collection or processing or
25 any other data received by, recorded by, prepared by, furnished to or
26 collected by the department with respect to a return or with respect to the
27 termination, or possible existence, of liability of any person for any tax,
28 penalty or interest imposed pursuant to this title or title 43.

29 ~~(ix)~~ (viii) Information supplied by an employee to an employer
30 regarding the employee's election to have the employee's withholding tax
31 reduced for the purposes of contributions to qualifying charitable
32 organizations, qualified school tuition organizations or public schools
33 pursuant to section 43-401, subsection H- G.

34 (b) Does not include information ~~which~~ THAT is otherwise a public
35 record.

36 ~~3.~~ 2. "Report" includes a notice of insurance payments, a request for
37 a release of a bank account and an inventory of a safe deposit box.

38 ~~4.~~ 3. "Return" includes any form prescribed by the department and any
39 supporting schedules, attachments and lists.

40 ~~5.~~ 4. "Tax administration" includes assessment, collection,
41 investigation, litigation, statistical gathering functions, enforcement,
42 policy making functions or management of those functions of the tax revenue
43 laws of this state.

44 ~~6.~~ 5. "Taxpayer", with respect to a joint return, means either party.

1 Sec. 19. Section 42-2003, Arizona Revised Statutes, is amended to
2 read:

3 42-2003. Authorized disclosure of confidential information

4 A. Confidential information relating to:

5 1. A taxpayer may be disclosed to the taxpayer, its successor in
6 interest or a designee of the taxpayer who is authorized in writing by the
7 taxpayer. A principal corporate officer of a parent corporation may execute
8 a written authorization for a controlled subsidiary.

9 2. A corporate taxpayer may be disclosed to any principal officer, any
10 person designated by a principal officer or any person designated in a
11 resolution by the corporate board of directors or other similar governing
12 body.

13 3. A partnership may be disclosed to any partner of the partnership.
14 This exception does not include disclosure of confidential information of a
15 particular partner unless otherwise authorized.

16 4. An estate may be disclosed to the personal representative of the
17 estate and to any heir, next of kin or beneficiary under the will of the
18 decedent if the department finds that the heir, next of kin or beneficiary
19 has a material interest which will be affected by the confidential
20 information.

21 5. A trust may be disclosed to the trustee or trustees, jointly or
22 separately, and to the grantor or any beneficiary of the trust if the
23 department finds that the grantor or beneficiary has a material interest
24 which THAT will be affected by the confidential information.

25 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
26 to confidentiality either in writing or on the record in any administrative
27 or judicial proceeding.

28 7. The name and taxpayer identification numbers of persons issued
29 direct payment permits may be publicly disclosed.

30 B. Confidential information may be disclosed to:

31 1. Any employee of the department whose official duties involve tax
32 administration.

33 2. The office of the attorney general solely for its use in
34 preparation for, or in an investigation which THAT may result in, any
35 proceeding involving tax administration before the department or any other
36 agency or board of this state, or before any grand jury or any state or
37 federal court.

38 3. The department of liquor licenses and control for its use in
39 determining whether a spirituous liquor licensee has paid all transaction
40 privilege taxes and affiliated excise taxes incurred as a result of the sale
41 of spirituous liquor, as defined in section 4-101, at the licensed
42 establishment and imposed on the licensed establishments by this state and
43 its political subdivisions.

44 4. Other state tax officials whose official duties require the
45 disclosure for proper tax administration purposes if the information is

1 sought in connection with an investigation or any other proceeding conducted
2 by the official. Any disclosure is limited to information of a taxpayer who
3 is being investigated or who is a party to a proceeding conducted by the
4 official.

5 5. The following agencies, officials and organizations, if they grant
6 substantially similar privileges to the department for the type of
7 information being sought, pursuant to statute and a written agreement between
8 the department and the foreign country, agency, state, Indian tribe or
9 organization:

10 (a) The United States internal revenue service, alcohol and tobacco
11 tax and trade bureau of the United States treasury, United States bureau of
12 alcohol, tobacco, firearms and explosives of the United States department of
13 justice, United States drug enforcement agency and federal bureau of
14 investigation.

15 (b) A state tax official of another state.

16 (c) An organization of states, federation of tax administrators or
17 multistate tax commission that operates an information exchange for tax
18 administration purposes.

19 (d) An agency, official or organization of a foreign country with
20 responsibilities that are comparable to those listed in subdivision (a), (b)
21 or (c) of this paragraph.

22 (e) An agency, official or organization of an Indian tribal government
23 with responsibilities comparable to the responsibilities of the agencies,
24 officials or organizations identified in subdivision (a), (b) or (c) of this
25 paragraph.

26 6. The auditor general, in connection with any audit of the department
27 subject to the restrictions in section 42-2002, subsection D.

28 7. Any person to the extent necessary for effective tax administration
29 in connection with:

30 (a) The processing, storage, transmission, destruction and
31 reproduction of the information.

32 (b) The programming, maintenance, repair, testing and procurement of
33 equipment for purposes of tax administration.

34 (c) The collection of the taxpayer's civil liability.

35 8. The office of administrative hearings relating to taxes
36 administered by the department pursuant to section 42-1101, but the
37 department shall not disclose any confidential information:

38 (a) Regarding income tax, OR withholding tax ~~or estate tax~~.

39 (b) On any tax issue relating to information associated with the
40 reporting of income tax, OR withholding tax ~~or estate tax~~.

41 9. The United States treasury inspector general for tax administration
42 for the purpose of reporting a violation of internal revenue code section
43 7213A (26 United States Code section 7213A), unauthorized inspection of
44 returns or return information.

1 10. The financial management service of the United States treasury
2 department for use in the treasury offset program.

3 11. The United States treasury department or its authorized agent for
4 use in the state income tax levy program and in the electronic federal tax
5 payment system.

6 12. ~~The department of commerce~~ ARIZONA COMMERCE AUTHORITY for its use
7 in:

8 ~~(a) Qualifying motion picture production companies for the tax~~
9 ~~incentives provided for motion picture production under chapter 5 of this~~
10 ~~title and sections 43-1075 and 43-1163.~~

11 ~~(b) Qualifying applicants for the motion picture infrastructure~~
12 ~~project tax credits under sections 43-1075.01 and 43-1163.01.~~

13 ~~(c)~~ (a) Qualifying renewable energy operations for the tax incentives
14 under sections 42-12006, 43-1083.01 and 43-1164.01.

15 ~~(d)~~ (b) Fulfilling its annual reporting responsibility pursuant to
16 section 41-1511, subsections U and V ~~and section 41-1517, subsections S and~~
17 ~~T.~~

18 13. A prosecutor for purposes of section 32-1164, subsection C.

19 14. The state fire marshal for use in determining compliance with and
20 enforcing title 41, chapter 16, article 3.1.

21 15. The department of transportation for its use in administering taxes
22 and surcharges prescribed by title 28.

23 C. Confidential information may be disclosed in any state or federal
24 judicial or administrative proceeding pertaining to tax administration
25 pursuant to the following conditions:

26 1. One or more of the following circumstances must apply:

27 (a) The taxpayer is a party to the proceeding.

28 (b) The proceeding arose out of, or in connection with, determining
29 the taxpayer's civil or criminal liability, or the collection of the
30 taxpayer's civil liability, with respect to any tax imposed under this title
31 or title 43.

32 (c) The treatment of an item reflected on the taxpayer's return is
33 directly related to the resolution of an issue in the proceeding.

34 (d) Return information directly relates to a transactional
35 relationship between a person who is a party to the proceeding and the
36 taxpayer and directly affects the resolution of an issue in the proceeding.

37 2. Confidential information may not be disclosed under this subsection
38 if the disclosure is prohibited by section 42-2002, subsection C or D.

39 D. Identity information may be disclosed for purposes of notifying
40 persons entitled to tax refunds if the department is unable to locate the
41 persons after reasonable effort.

42 E. The department, ~~upon~~ ON the request of any person, shall provide
43 the names and addresses of bingo licensees as defined in section 5-401,
44 verify whether or not a person has a privilege license and number, a
45 distributor's license and number or a withholding license and number or

1 disclose the information to be posted on the department's website or
2 otherwise publicly accessible pursuant to section 42-1124, subsection F and
3 section 42-3201, subsection A.

4 F. A department employee, in connection with the official duties
5 relating to any audit, collection activity or civil or criminal
6 investigation, may disclose return information to the extent that disclosure
7 is necessary to obtain information ~~which~~ THAT is not otherwise reasonably
8 available. These official duties include the correct determination of and
9 liability for tax, the amount to be collected or the enforcement of other
10 state tax revenue laws.

11 G. If an organization is exempt from this state's income tax as
12 provided in section 43-1201 for any taxable year, the name and address of the
13 organization and the application filed by the organization ~~upon~~ ON which the
14 department made its determination for exemption together with any papers
15 submitted in support of the application and any letter or document issued by
16 the department concerning the application are open to public inspection.

17 H. Confidential information relating to transaction privilege tax, use
18 tax, severance tax, jet fuel excise and use tax ~~and rental occupancy tax~~ AND
19 ANY OTHER TAX COLLECTED BY THE DEPARTMENT ON BEHALF OF THE COUNTY may be
20 disclosed to any county, city or town tax official if the information relates
21 to a taxpayer who is or may be taxable by the county, city or town. Any
22 taxpayer information released by the department to the county, city or town:

23 1. May only be used for internal purposes.

24 2. May not be disclosed to the public in any manner that does not
25 comply with confidentiality standards established by the department. The
26 county, city or town shall agree in writing with the department that any
27 release of confidential information that violates the confidentiality
28 standards adopted by the department will result in the immediate suspension
29 of any rights of the county, city or town to receive taxpayer information
30 under this subsection.

31 I. The department may disclose statistical information gathered from
32 confidential information if it does not disclose confidential information
33 attributable to any one taxpayer. The department may disclose statistical
34 information gathered from confidential information, even if it discloses
35 confidential information attributable to a taxpayer, to:

36 1. The state treasurer in order to comply with the requirements of
37 section 42-5029, subsection A, paragraph 3.

38 2. The joint legislative income tax credit review committee and the
39 joint legislative budget committee staff in order to comply with the
40 requirements of section 43-221.

41 J. The department may disclose the aggregate amounts of any tax
42 credit, tax deduction or tax exemption enacted after January 1, 1994.
43 Information subject to disclosure under this subsection shall not be
44 disclosed if a taxpayer demonstrates to the department that such information
45 would give an unfair advantage to competitors.

1 K. Except as provided in section 42-2002, subsection C, confidential
2 information, described in section 42-2001, paragraph 2- 1, subdivision (a),
3 item ~~(iii)~~ (ii), may be disclosed to law enforcement agencies for law
4 enforcement purposes.

5 L. The department may provide transaction privilege tax license
6 information to property tax officials in a county for the purpose of
7 identification and verification of the tax status of commercial property.

8 M. The department may provide transaction privilege tax, luxury tax,
9 use tax, property tax and severance tax information to the ombudsman-citizens
10 aide pursuant to title 41, chapter 8, article 5.

11 N. Except as provided in section 42-2002, subsection D, a court may
12 order the department to disclose confidential information pertaining to a
13 party to an action. An order shall be made only upon a showing of good cause
14 and that the party seeking the information has made demand upon the taxpayer
15 for the information.

16 O. This section does not prohibit the disclosure by the department of
17 any information or documents submitted to the department by a bingo licensee.
18 Before disclosing the information the department shall obtain the name and
19 address of the person requesting the information.

20 P. If the department is required or permitted to disclose confidential
21 information, it may charge the person or agency requesting the information
22 for the reasonable cost of its services.

23 Q. Except as provided in section 42-2002, subsection D, the department
24 of revenue shall release confidential information as requested by the
25 department of economic security pursuant to section 42-1122 or 46-291.
26 Information disclosed under this subsection is limited to the same type of
27 information that the United States internal revenue service is authorized to
28 disclose under section 6103(1)(6) of the internal revenue code.

29 R. Except as provided in section 42-2002, subsection D, the department
30 of revenue shall release confidential information as requested by the courts
31 and clerks of the court pursuant to section 42-1122.

32 S. To comply with the requirements of section 42-5031, the department
33 may disclose to the state treasurer, to the county stadium district board of
34 directors and to any city or town tax official that is part of the county
35 stadium district confidential information attributable to a taxpayer's
36 business activity conducted in the county stadium district.

37 T. The department shall release confidential information as requested
38 by the attorney general for purposes of determining compliance with and
39 enforcing section 44-7101, the master settlement agreement referred to
40 therein and subsequent agreements to which the state is a party that amend or
41 implement the master settlement agreement. Information disclosed under this
42 subsection is limited to luxury tax information relating to tobacco
43 manufacturers, distributors, wholesalers and retailers and information
44 collected by the department pursuant to section 44-7101(2)(j).

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

1. The treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding.

2. Such return or return information relates or may relate to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding.

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

V. The department may disclose to the attorney general confidential information received under section 44-7111 and requested by the attorney general for purposes of determining compliance with and enforcing section 44-7111. The department and attorney general shall share with each other the information received under section 44-7111, and may share the information with other federal, state or local agencies only for the purposes of enforcement of section 44-7101, section 44-7111 or corresponding laws of other states.

W. The department may provide the name and address of qualifying hospitals and qualifying health care organizations, as defined in section 42-5001, to a business classified and reporting transaction privilege tax under the utilities classification.

Sec. 20. Repeal

Title 42, chapter 3, article 5.1, Arizona Revised Statutes, is repealed.

Sec. 21. Section 42-5001, Arizona Revised Statutes, is amended to read:

42-5001. Definitions

In this article and article 2 of this chapter, unless the context otherwise requires:

1. "Business" includes all activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit or advantage, either directly or indirectly, but not casual activities or sales.

1 2. "Distribution base" means the portion of the revenues derived from
2 the tax levied by this article and articles 5 and 8 of this chapter
3 designated for distribution to counties, municipalities and other purposes
4 according to section 42-5029, subsection D.

5 3. "Engaging", when used with reference to engaging or continuing in
6 business, includes the exercise of corporate or franchise powers.

7 4. "Gross income" means the gross receipts of a taxpayer derived from
8 trade, business, commerce or sales and the value proceeding or accruing from
9 the sale of tangible personal property or service, or both, and without any
10 deduction on account of losses.

11 5. "Gross proceeds of sales" means the value proceeding or accruing
12 from the sale of tangible personal property without any deduction on account
13 of the cost of property sold, expense of any kind or losses, but cash
14 discounts allowed and taken on sales are not included as gross income.

15 6. "Gross income" and "gross proceeds of sales" do not include goods,
16 wares or merchandise, or value thereof, returned by customers if the sale
17 price is refunded either in cash or by credit, nor the value of merchandise
18 traded in on the purchase of new merchandise when the trade-in allowance is
19 deducted from the sales price of the new merchandise before completion of the
20 sale.

21 7. "Gross receipts" means the total amount of the sale, lease or
22 rental price, as the case may be, of the retail sales of retailers, including
23 any services that are a part of the sales, valued in money, whether received
24 in money or otherwise, including all receipts, cash, credits and property of
25 every kind or nature, and any amount for which credit is allowed by the
26 seller to the purchaser without any deduction from the amount on account of
27 the cost of the property sold, materials used, labor or service performed,
28 interest paid, losses or any other expense. Gross receipts do not include
29 cash discounts allowed and taken nor the sale price of property returned by
30 customers if the full sale price is refunded either in cash or by credit.

31 8. "Person" or "company" includes an individual, firm, partnership,
32 joint venture, association, corporation, estate or trust, this state, any
33 county, city, town, district, other than a school district, or other
34 political subdivision and any other group or combination acting as a unit,
35 and the plural as well as the singular number.

36 9. "Qualifying community health center":

37 (a) Means an entity that is recognized as nonprofit under section
38 501(c)(3) of the United States internal revenue code, that is a
39 community-based, primary care clinic that has a community-based board of
40 directors and that is either:

41 (i) The sole provider of primary care in the community.

42 (ii) A nonhospital affiliated clinic that is located in a federally
43 designated medically underserved area in this state.

44 (b) Includes clinics that are being constructed as qualifying
45 community health centers.

1 10. "Qualifying health care organization" means an entity that is
2 recognized as nonprofit under section 501(c) of the United States internal
3 revenue code and that uses, saves or invests at least eighty per cent of all
4 monies that it receives from all sources each year only for health and
5 medical related educational and charitable services, as documented by annual
6 financial audits prepared by an independent certified public accountant,
7 performed according to generally accepted accounting AUDITING standards and
8 filed annually with the department. Monies that are used, saved or invested
9 to lease, purchase or construct a facility for health and medical related
10 education and charitable services are included in the eighty per cent
11 requirement.

12 11. "Qualifying hospital" means any of the following:

13 (a) A licensed hospital which is organized and operated exclusively
14 for charitable purposes, no part of the net earnings of which inures to the
15 benefit of any private shareholder or individual.

16 (b) A licensed nursing care institution or a licensed residential care
17 institution or a residential care facility operated in conjunction with a
18 licensed nursing care institution or a licensed kidney dialysis center, which
19 provides medical services, nursing services or health related services and is
20 not used or held for profit.

21 (c) A hospital, nursing care institution or residential care
22 institution which is operated by the federal government, this state or a
23 political subdivision of this state.

24 (d) A facility that is under construction and that on completion will
25 be a facility under subdivision (a), (b) or (c) of this paragraph.

26 12. "Retailer" includes every person engaged in the business classified
27 under the retail classification pursuant to section 42-5061 and, when in the
28 opinion of the department it is necessary for the efficient administration of
29 this article, includes dealers, distributors, supervisors, employers and
30 salesmen, representatives, peddlers or canvassers as the agents of the
31 dealers, distributors, supervisors or employers under whom they operate or
32 from whom they obtain the tangible personal property sold by them, whether in
33 making sales on their own behalf or on behalf of the dealers, distributors,
34 supervisors or employers.

35 13. "Sale" means any transfer of title or possession, or both,
36 exchange, barter, lease or rental, conditional or otherwise, in any manner or
37 by any means whatever, including consignment transactions and auctions, of
38 tangible personal property or other activities taxable under this chapter,
39 for a consideration, and includes:

40 (a) Any transaction by which the possession of property is transferred
41 but the seller retains the title as security for the payment of the price.

42 (b) Fabricating tangible personal property for consumers who furnish
43 either directly or indirectly the materials used in the fabrication work.

1 (c) Furnishing, preparing or serving for a consideration any tangible
2 personal property consumed on the premises of the person furnishing,
3 preparing or serving the tangible personal property.

4 14. "Solar daylighting" means a device that is specifically designed to
5 capture and redirect the visible portion of the solar beam, while controlling
6 the infrared portion, for use in illuminating interior building spaces in
7 lieu of artificial lighting.

8 15. "Solar energy device" means a system or series of mechanisms
9 designed primarily to provide heating, to provide cooling, to produce
10 electrical power, to produce mechanical power, to provide solar daylighting
11 or to provide any combination of the foregoing by means of collecting and
12 transferring solar generated energy into such uses either by active or
13 passive means, including wind generator systems that produce
14 electricity. Solar energy systems may also have the capability of storing
15 solar energy for future use. Passive systems shall clearly be designed as a
16 solar energy device, such as a trombe wall, and not merely as a part of a
17 normal structure, such as a window.

18 16. "Tangible personal property" means personal property which may be
19 seen, weighed, measured, felt or touched or is in any other manner
20 perceptible to the senses.

21 17. "Tax year" or "taxable year" means either the calendar year or the
22 taxpayer's fiscal year, if permission is obtained from the department to use
23 a fiscal year as the tax period instead of the calendar year.

24 18. "Taxpayer" means any person who is liable for any tax which is
25 imposed by this article.

26 19. "Wholesaler" or "jobber" means any person who sells tangible
27 personal property for resale and not for consumption by the purchaser.

28 Sec. 22. Section 42-5009, Arizona Revised Statutes, is amended to
29 read:

30 42-5009. Certificates establishing deductions: liability for
31 making false certificate

32 A. A person who conducts any business classified under article 2 of
33 this chapter may establish entitlement to the allowable deductions from the
34 tax base of that business by both:

35 1. Marking the invoice for the transaction to indicate that the gross
36 proceeds of sales or gross income derived from the transaction was deducted
37 from the tax base.

38 2. Obtaining a certificate executed by the purchaser indicating the
39 name and address of the purchaser, the precise nature of the business of the
40 purchaser, the purpose for which the purchase was made, the necessary facts
41 to establish the appropriate deduction and the tax license number of the
42 purchaser to the extent the deduction depends on the purchaser conducting
43 business classified under article 2 of this chapter and a certification that
44 the person executing the certificate is authorized to do so on behalf of the
45 purchaser. The certificate may be disregarded if the seller has reason to

1 believe that the information contained in the certificate is not accurate or
2 complete.

3 B. A person who does not comply with subsection A of this section may
4 establish entitlement to the deduction by presenting facts necessary to
5 support the entitlement, but the burden of proof is on that person.

6 C. The department may prescribe a form for the certificate described
7 in subsection A of this section. Under such rules as it may prescribe, the
8 department may also describe transactions with respect to which a person is
9 not entitled to rely solely on the information contained in the certificate
10 provided for in subsection A of this section but must instead obtain such
11 additional information as required by the rules in order to be entitled to
12 the deduction.

13 D. If a seller is entitled to a deduction by complying with subsection
14 A of this section, the department may require the purchaser ~~which~~ THAT caused
15 the execution of the certificate to establish the accuracy and completeness
16 of the information required to be contained in the certificate ~~which~~ THAT
17 would entitle the seller to the deduction. If the purchaser cannot establish
18 the accuracy and completeness of the information, the purchaser is liable in
19 an amount equal to any tax, penalty and interest ~~which~~ THAT the seller would
20 have been required to pay under this article if the seller had not complied
21 with subsection A of this section. Payment of the amount under this
22 subsection exempts the purchaser from liability for any tax imposed under
23 article 4 of this chapter. The amount shall be treated as tax revenues
24 collected from the seller in order to designate the distribution base for
25 purposes of section 42-5029.

26 E. If a seller is entitled to a deduction by complying with subsection
27 B of this section, the department may require the purchaser to establish the
28 accuracy and completeness of the information provided to the seller that
29 entitled the seller to the deduction. If the purchaser cannot establish the
30 accuracy and completeness of the information, the purchaser is liable in an
31 amount equal to any tax, penalty and interest that the seller would have been
32 required to pay under this article if the seller had not complied with
33 subsection B of this section. Payment of the amount under this subsection
34 exempts the purchaser from liability for any tax imposed under article 4 of
35 this chapter. The amount shall be treated as tax revenues collected from the
36 seller in order to designate the distribution base for purposes of section
37 42-5029.

38 F. The department may prescribe a form for a certificate used to
39 establish entitlement to the deductions described in section 42-5061,
40 subsection A, paragraph 47 and section 42-5063, subsection B, paragraph 3.
41 Under rules the department may prescribe, the department may also require
42 additional information for the seller to be entitled to the deduction. If a
43 seller is entitled to the deductions described in section 42-5061, subsection
44 A, paragraph 47 and section 42-5063, subsection B, paragraph 3, the
45 department may require the purchaser who executed the certificate to

1 establish the accuracy and completeness of the information contained in the
2 certificate that would entitle the seller to the deduction. If the purchaser
3 cannot establish the accuracy and completeness of the information, the
4 purchaser is liable in an amount equal to any tax, penalty and interest that
5 the seller would have been required to pay under this article. Payment of
6 the amount under this subsection exempts the purchaser from liability for any
7 tax imposed under article 4 of this chapter. The amount shall be treated as
8 tax revenues collected from the seller in order to designate the distribution
9 base for purposes of section 42-5029.

10 G. If a seller claims a deduction under section 42-5061, subsection A,
11 paragraph 25 and establishes entitlement to the deduction with an exemption
12 letter that the purchaser received from the department and the exemption
13 letter was based on a contingent event, the department may require the
14 purchaser that received the exemption letter to establish the satisfaction of
15 the contingent event within a reasonable time. If the purchaser cannot
16 establish the satisfaction of the event, the purchaser is liable in an amount
17 equal to any tax, penalty and interest that the seller would have been
18 required to pay under this article if the seller had not been furnished the
19 exemption letter. Payment of the amount under this subsection exempts the
20 purchaser from liability for any tax imposed under article 4 of this chapter.
21 The amount shall be treated as tax revenues collected from the seller in
22 order to designate the distribution base for purposes of section 42-5029.
23 For the purposes of this subsection, "reasonable time" means a time
24 limitation that the department determines and that does not exceed the time
25 limitations pursuant to section 42-1104.

26 ~~H. From and after December 31, 2005 through December 31, 2010, the~~
27 ~~department shall prescribe a form for a certificate used to establish~~
28 ~~entitlement to the deductions described in section 42-5061, subsection B,~~
29 ~~paragraph 23, section 42-5066, subsection B, paragraph 5, section 42-5070,~~
30 ~~subsection C, paragraph 2, section 42-5074, subsection B, paragraph 10,~~
31 ~~section 42-5075, subsection B, paragraph 20 and section 42-5159, subsection~~
32 ~~B, paragraph 23 relating to motion picture production. The certificate is~~
33 ~~effective for twelve consecutive calendar months from and after the date of~~
34 ~~issuance and is subject to the following requirements and conditions:~~

35 ~~1. A motion picture production company as defined in section 41-1517~~
36 ~~may use a certificate issued pursuant to this subsection only with respect to~~
37 ~~production costs described in section 41-1517, subsection A, paragraph 2 that~~
38 ~~are subject to taxation under article 2 or 4 of this chapter.~~

39 ~~2. The department shall issue the certificate to a motion picture~~
40 ~~production company on receiving the company's letter of qualification from~~
41 ~~the department of commerce, except as otherwise provided in this subsection.~~

42 ~~3. The department shall not issue a certificate to a motion picture~~
43 ~~production company that has a delinquent tax balance owing to the department~~
44 ~~under this title or title 43.~~

1 ~~4. If the department determines that a motion picture production~~
2 ~~company no longer qualifies for a certificate or has used the certificate for~~
3 ~~unauthorized purposes, the department shall revoke the certificate and the~~
4 ~~motion picture production company is liable for an amount equal to the~~
5 ~~transaction privilege and use taxes that would have been due on taxable~~
6 ~~transactions during the time the company did not qualify for or improperly~~
7 ~~used the certificate, with interest and penalties as provided by law.~~

8 ~~5. The department shall maintain annual data on the total amount of~~
9 ~~monies exempted through the use of certificates issued pursuant to this~~
10 ~~subsection and shall provide those data to the department of commerce on~~
11 ~~request.~~

12 ~~6. The department of revenue, with the cooperation of the department~~
13 ~~of commerce, shall adopt rules and publish and prescribe forms and procedures~~
14 ~~as necessary to effectuate the purposes of this subsection.~~

15 ~~7. If, after audit, the department determines that a motion picture~~
16 ~~production company failed to meet any of the requirements prescribed by this~~
17 ~~subsection, any deductions from taxation from the use of the certificate are~~
18 ~~subject to recapture and payment by the motion picture production company to~~
19 ~~the department.~~

20 ~~I. H.~~ The department shall prescribe forms for certificates used to
21 establish the satisfaction of the criteria necessary to qualify the sale of a
22 motor vehicle for the deductions described in section 42-5061, subsection A,
23 paragraph 14, paragraph 28, subdivision (a) and paragraph 45 and
24 subsection U. To establish entitlement to these deductions, a motor vehicle
25 dealer shall retain:

26 1. A valid certificate as prescribed by this subsection completed by
27 the purchaser and obtained prior to the issuance of the nonresident
28 registration permit authorized by section 28-2154.

29 2. A copy of the nonresident registration permit authorized by section
30 28-2154.

31 3. A legible copy of a current valid driver license issued to the
32 purchaser by another state or foreign country that indicates an address
33 outside of this state. For the sale of a motor vehicle to a nonresident
34 entity, the entity's representative must have a current valid driver license
35 issued by the same jurisdiction as that in which the entity is located.

36 4. For the purposes of the deduction provided by section 42-5061,
37 subsection A, paragraph 14, a certificate documenting the delivery of the
38 motor vehicle to an out-of-state location.

39 ~~I.~~ I. Notwithstanding subsection A, paragraph 2 of this section, if a
40 motor vehicle dealer has established entitlement to a deduction by complying
41 with subsection ~~I~~ H of this section, the department may require the
42 purchaser who executed the certificate to establish the accuracy and
43 completeness of the information contained in the certificate that entitled
44 the motor vehicle dealer to the deduction. If the purchaser cannot establish
45 the accuracy and completeness of the information, the purchaser is liable in

1 an amount equal to any tax, penalty and interest that the motor vehicle
2 dealer would have been required to pay under this article and under articles
3 IV and V of the model city tax code as defined in section 42-6051. Payment
4 of the amount under this subsection exempts the purchaser from liability for
5 any tax imposed under article 4 of this chapter and any tax imposed under
6 article VI of the model city tax code as defined in section 42-6051. The
7 amount shall be treated as tax revenues collected from the motor vehicle
8 dealer in order to designate the distribution base for purposes of section
9 42-5029.

10 ~~K~~ J. Notwithstanding any other law, compliance with subsection ~~I~~ H
11 of this section by a motor vehicle dealer entitles the motor vehicle dealer
12 to the exemption provided in section 42-6004, subsection A, paragraph 4.

13 Sec. 23. Section 42-5061, Arizona Revised Statutes, is amended to
14 read:

15 42-5061. Retail classification; definitions

16 A. The retail classification is comprised of the business of selling
17 tangible personal property at retail. The tax base for the retail
18 classification is the gross proceeds of sales or gross income derived from
19 the business. The tax imposed on the retail classification does not apply to
20 the gross proceeds of sales or gross income from:

21 1. Professional or personal service occupations or businesses ~~which~~
22 THAT involve sales or transfers of tangible personal property only as
23 inconsequential elements.

24 2. Services rendered in addition to selling tangible personal property
25 at retail.

26 3. Sales of warranty or service contracts. The storage, use or
27 consumption of tangible personal property provided under the conditions of
28 such contracts is subject to tax under section 42-5156.

29 4. Sales of tangible personal property by any nonprofit organization
30 organized and operated exclusively for charitable purposes and recognized by
31 the United States internal revenue service under section 501(c)(3) of the
32 internal revenue code.

33 5. Sales to persons engaged in business classified under the
34 restaurant classification of articles used by human beings for food, drink or
35 condiment, whether simple, mixed or compounded.

36 6. Business activity ~~which~~ THAT is properly included in any other
37 business classification ~~which~~ THAT is taxable under this article.

38 7. The sale of stocks and bonds.

39 8. Drugs and medical oxygen, including delivery hose, mask or tent,
40 regulator and tank, on the prescription of a member of the medical, dental or
41 veterinarian profession who is licensed by law to administer such substances.

42 9. Prosthetic appliances as defined in section 23-501 prescribed or
43 recommended by a health professional who is licensed pursuant to title 32,
44 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

45 10. Insulin, insulin syringes and glucose test strips.

- 1 11. Prescription eyeglasses or contact lenses.
- 2 12. Hearing aids as defined in section 36-1901.
- 3 13. Durable medical equipment which has a centers for medicare and
4 medicaid services common procedure code, is designated reimbursable by
5 medicare, is prescribed by a person who is licensed under title 32, chapter
6 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
7 customarily used to serve a medical purpose, is generally not useful to a
8 person in the absence of illness or injury and is appropriate for use in the
9 home.
- 10 14. Sales to nonresidents of this state for use outside this state if
11 the vendor ships or delivers the tangible personal property out of this
12 state.
- 13 15. Food, as provided in and subject to the conditions of article 3 of
14 this chapter and section 42-5074.
- 15 16. Items purchased with United States department of agriculture food
16 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
17 958) or food instruments issued under section 17 of the child nutrition act
18 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
19 section 1786).
- 20 17. Textbooks by any bookstore that are required by any state
21 university or community college.
- 22 18. Food and drink to a person who is engaged in business which THAT is
23 classified under the restaurant classification and which THAT provides such
24 food and drink without monetary charge to its employees for their own
25 consumption on the premises during the employees' hours of employment.
- 26 19. Articles of food, drink or condiment and accessory tangible
27 personal property to a school district or charter school if such articles and
28 accessory tangible personal property are to be prepared and served to persons
29 for consumption on the premises of a public school within the district or on
30 the premises of the charter school during school hours.
- 31 20. Lottery tickets or shares pursuant to title 5, chapter 5,
32 article 1.
- 33 21. The sale of precious metal bullion and monetized bullion to the
34 ultimate consumer, but the sale of coins or other forms of money for
35 manufacture into jewelry or works of art is subject to the tax. For the
36 purposes of this paragraph:
37 (a) "Monetized bullion" means coins and other forms of money which
38 THAT are manufactured from gold, silver or other metals and which THAT have
39 been or are used as a medium of exchange in this or another state, the United
40 States or a foreign nation.
41 (b) "Precious metal bullion" means precious metal, including gold,
42 silver, platinum, rhodium and palladium, which THAT has been smelted or
43 refined so that its value depends on its contents and not on its form.
- 44 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
45 under title 28, chapter 16, article 1, sales of use fuel to a holder of a

valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

(a) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(b) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

1 ~~(c) Incorporated or fabricated by the person into any lake facility~~
2 ~~development in a commercial enhancement reuse district under conditions~~
3 ~~prescribed for the deduction allowed by section 42-5075, subsection B,~~
4 ~~paragraph 8.~~

5 28. The sale of a motor vehicle to:

6 (a) A nonresident of this state if the purchaser's state of residence
7 does not allow a corresponding use tax exemption to the tax imposed by
8 article 1 of this chapter and if the nonresident has secured a special ninety
9 day nonresident registration permit for the vehicle as prescribed by sections
10 28-2154 and 28-2154.01.

11 (b) An enrolled member of an Indian tribe who resides on the Indian
12 reservation established for that tribe.

13 29. Tangible personal property purchased in this state by a nonprofit
14 charitable organization that has qualified under section 501(c)(3) of the
15 United States internal revenue code and that engages in and uses such
16 property exclusively in programs for mentally or physically handicapped
17 persons if the programs are exclusively for training, job placement,
18 rehabilitation or testing.

19 30. Sales of tangible personal property by a nonprofit organization
20 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
21 of the internal revenue code if the organization is associated with a major
22 league baseball team or a national touring professional golfing association
23 and no part of the organization's net earnings inures to the benefit of any
24 private shareholder or individual.

25 31. Sales of commodities, as defined by title 7 United States Code
26 section 2, that are consigned for resale in a warehouse in this state in or
27 from which the commodity is deliverable on a contract for future delivery
28 subject to the rules of a commodity market regulated by the United States
29 commodity futures trading commission.

30 32. Sales of tangible personal property by a nonprofit organization
31 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
32 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
33 sponsors or operates a rodeo featuring primarily farm and ranch animals and
34 no part of the organization's net earnings inures to the benefit of any
35 private shareholder or individual.

36 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
37 propagative material to persons who use those items to commercially produce
38 agricultural, horticultural, viticultural or floricultural crops in this
39 state.

40 34. Machinery, equipment, technology or related supplies that are only
41 useful to assist a person who is physically disabled as defined in section
42 46-191, has a developmental disability as defined in section 36-551 or has a
43 head injury as defined in section 41-3201 to be more independent and
44 functional.

1 35. Sales of tangible personal property that is shipped or delivered
2 directly to a destination outside the United States for use in that foreign
3 country.

4 36. Sales of natural gas or liquefied petroleum gas used to propel a
5 motor vehicle.

6 37. Paper machine clothing, such as forming fabrics and dryer felts,
7 sold to a paper manufacturer and directly used or consumed in paper
8 manufacturing.

9 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
10 sold to a qualified environmental technology manufacturer, producer or
11 processor as defined in section 41-1514.02 and directly used or consumed in
12 the generation or provision of on-site power or energy solely for
13 environmental technology manufacturing, producing or processing or
14 environmental protection. This paragraph shall apply for twenty full
15 consecutive calendar or fiscal years from the date the first paper
16 manufacturing machine is placed in service. In the case of an environmental
17 technology manufacturer, producer or processor who does not manufacture
18 paper, the time period shall begin with the date the first manufacturing,
19 processing or production equipment is placed in service.

20 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
21 processing, fabricating, mining, refining, metallurgical operations, research
22 and development and, beginning on January 1, 1999, printing, if using or
23 consuming the chemicals, alone or as part of an integrated system of
24 chemicals, involves direct contact with the materials from which the product
25 is produced for the purpose of causing or permitting a chemical or physical
26 change to occur in the materials as part of the production process. This
27 paragraph does not include chemicals that are used or consumed in activities
28 such as packaging, storage or transportation but does not affect any
29 deduction for such chemicals that is otherwise provided by this section. For
30 the purposes of this paragraph, "printing" means a commercial printing
31 operation and includes job printing, engraving, embossing, copying and
32 bookbinding.

33 40. Through December 31, 1994, personal property liquidation
34 transactions, conducted by a personal property liquidator. From and after
35 December 31, 1994, personal property liquidation transactions shall be
36 taxable under this section provided that nothing in this subsection shall be
37 construed to authorize the taxation of casual activities or transactions
38 under this chapter. For the purposes of this paragraph:

39 (a) "Personal property liquidation transaction" means a sale of
40 personal property made by a personal property liquidator acting solely on
41 behalf of the owner of the personal property sold at the dwelling of the
42 owner or ~~upon~~ ON the death of any owner, on behalf of the surviving spouse,
43 if any, any devisee or heir or the personal representative of the estate of
44 the deceased, if one has been appointed.

1 (b) "Personal property liquidator" means a person who is retained to
2 conduct a sale in a personal property liquidation transaction.

3 41. Sales of food, drink and condiment for consumption within the
4 premises of any prison, jail or other institution under the jurisdiction of
5 the state department of corrections, the department of public safety, the
6 department of juvenile corrections or a county sheriff.

7 42. A motor vehicle and any repair and replacement parts and tangible
8 personal property becoming a part of such motor vehicle sold to a motor
9 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
10 and who is engaged in the business of leasing or renting such property.

11 43. Livestock and poultry feed, salts, vitamins and other additives for
12 livestock or poultry consumption that are sold to persons who are engaged in
13 producing livestock, poultry, or livestock or poultry products or who are
14 engaged in feeding livestock or poultry commercially. For the purposes of
15 this paragraph, "poultry" includes ratites.

16 44. Sales of implants used as growth promotants and injectable
17 medicines, not already exempt under paragraph 8 of this subsection, for
18 livestock or poultry owned by or in possession of persons who are engaged in
19 producing livestock, poultry, or livestock or poultry products or who are
20 engaged in feeding livestock or poultry commercially. For the purposes of
21 this paragraph, "poultry" includes ratites.

22 45. Sales of motor vehicles at auction to nonresidents of this state
23 for use outside this state if the vehicles are shipped or delivered out of
24 this state, regardless of where title to the motor vehicles passes or its
25 free on board point.

26 46. Tangible personal property sold to a person engaged in business and
27 subject to tax under the transient lodging classification if the tangible
28 personal property is a personal hygiene item or articles used by human beings
29 for food, drink or condiment, except alcoholic beverages, which THAT are
30 furnished without additional charge to and intended to be consumed by the
31 transient during the transient's occupancy.

32 47. Sales of alternative fuel, as defined in section 1-215, to a used
33 oil fuel burner who has received a permit to burn used oil or used oil fuel
34 under section 49-426 or 49-480.

35 48. Sales of materials that are purchased by or for publicly funded
36 libraries including school district libraries, charter school libraries,
37 community college libraries, state university libraries or federal, state,
38 county or municipal libraries for use by the public as follows:

39 (a) Printed or photographic materials, beginning August 7, 1985.

40 (b) Electronic or digital media materials, beginning July 17, 1994.

41 49. Tangible personal property sold to a commercial airline and
42 consisting of food, beverages and condiments and accessories used for serving
43 the food and beverages, if those items are to be provided without additional
44 charge to passengers for consumption in flight. For the purposes of this
45 paragraph, "commercial airline" means a person holding a federal certificate

1 of public convenience and necessity or foreign air carrier permit for air
2 transportation to transport persons, property or United States mail in
3 intrastate, interstate or foreign commerce.

4 50. Sales of alternative fuel vehicles if the vehicle was manufactured
5 as a diesel fuel vehicle and converted to operate on alternative fuel and
6 equipment that is installed in a conventional diesel fuel motor vehicle to
7 convert the vehicle to operate on an alternative fuel, as defined in section
8 1-215.

9 51. Sales of any spirituous, vinous or malt liquor by a person that is
10 licensed in this state as a wholesaler by the department of liquor licenses
11 and control pursuant to title 4, chapter 2, article 1.

12 52. Sales of tangible personal property to be incorporated or installed
13 as part of environmental response or remediation activities under section
14 42-5075, subsection B, paragraph 6.

15 53. Sales of tangible personal property by a nonprofit organization
16 that is exempt from taxation under section 501(c)(6) of the internal revenue
17 code if the organization produces, organizes or promotes cultural or civic
18 related festivals or events and no part of the organization's net earnings
19 inures to the benefit of any private shareholder or individual.

20 54. Through August 31, 2014, sales of Arizona centennial medallions by
21 the historical advisory commission.

22 55. Application services that are designed to assess or test student
23 learning or to promote curriculum design or enhancement purchased by or for
24 any school district, charter school, community college or state university.
25 For the purposes of this paragraph:

26 (a) "Application services" means software applications provided
27 remotely using hypertext transfer protocol or another network protocol.

28 (b) "Curriculum design or enhancement" means planning, implementing or
29 reporting on courses of study, lessons, assignments or other learning
30 activities.

31 B. In addition to the deductions from the tax base prescribed by
32 subsection A of this section, the gross proceeds of sales or gross income
33 derived from sales of the following categories of tangible personal property
34 shall be deducted from the tax base:

35 1. Machinery, or equipment, used directly in manufacturing,
36 processing, fabricating, job printing, refining or metallurgical operations.
37 The terms "manufacturing", "processing", "fabricating", "job printing",
38 "refining" and "metallurgical" as used in this paragraph refer to and include
39 those operations commonly understood within their ordinary meaning.
40 "Metallurgical operations" includes leaching, milling, precipitating,
41 smelting and refining.

42 2. Mining machinery, or equipment, used directly in the process of
43 extracting ores or minerals from the earth for commercial purposes, including
44 equipment required to prepare the materials for extraction and handling,
45 loading or transporting such extracted material to the surface. "Mining"

1 includes underground, surface and open pit operations for extracting ores and
2 minerals.

3 3. Tangible personal property sold to persons engaged in business
4 classified under the telecommunications classification and consisting of
5 central office switching equipment, switchboards, private branch exchange
6 equipment, microwave radio equipment and carrier equipment including optical
7 fiber, coaxial cable and other transmission media which are components of
8 carrier systems.

9 4. Machinery, equipment or transmission lines used directly in
10 producing or transmitting electrical power, but not including distribution.
11 Transformers and control equipment used at transmission substation sites
12 constitute equipment used in producing or transmitting electrical power.

13 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
14 to be used as breeding or production stock, including sales of breedings or
15 ownership shares in such animals used for breeding or production.

16 6. Pipes or valves four inches in diameter or larger used to transport
17 oil, natural gas, artificial gas, water or coal slurry, including compressor
18 units, regulators, machinery and equipment, fittings, seals and any other
19 part that is used in operating the pipes or valves.

20 7. Aircraft, navigational and communication instruments and other
21 accessories and related equipment sold to:

22 (a) A person holding a federal certificate of public convenience and
23 necessity, a supplemental air carrier certificate under federal aviation
24 regulations (14 Code of Federal Regulations part 121) or a foreign air
25 carrier permit for air transportation for use as or in conjunction with or
26 becoming a part of aircraft to be used to transport persons, property or
27 United States mail in intrastate, interstate or foreign commerce.

28 (b) Any foreign government.

29 (c) Persons who are not residents of this state and who will not use
30 such property in this state other than in removing such property from this
31 state. This subdivision also applies to corporations that are not
32 incorporated in this state, regardless of maintaining a place of business in
33 this state, if the principal corporate office is located outside this state
34 and the property will not be used in this state other than in removing the
35 property from this state.

36 8. Machinery, tools, equipment and related supplies used or consumed
37 directly in repairing, remodeling or maintaining aircraft, aircraft engines
38 or aircraft component parts by or on behalf of a certificated or licensed
39 carrier of persons or property.

40 9. Railroad rolling stock, rails, ties and signal control equipment
41 used directly to transport persons or property.

42 10. Machinery or equipment used directly to drill for oil or gas or
43 used directly in the process of extracting oil or gas from the earth for
44 commercial purposes.

1 11. Buses or other urban mass transit vehicles which are used directly
2 to transport persons or property for hire or pursuant to a governmentally
3 adopted and controlled urban mass transportation program and which are sold
4 to bus companies holding a federal certificate of convenience and necessity
5 or operated by any city, town or other governmental entity or by any person
6 contracting with such governmental entity as part of a governmentally adopted
7 and controlled program to provide urban mass transportation.

8 12. Groundwater measuring devices required under section 45-604.

9 13. New machinery and equipment consisting of tractors, tractor-drawn
10 implements, self-powered implements, machinery and equipment necessary for
11 extracting milk, and machinery and equipment necessary for cooling milk and
12 livestock, and drip irrigation lines not already exempt under paragraph 6 of
13 this subsection and that are used for commercial production of agricultural,
14 horticultural, viticultural and floricultural crops and products in this
15 state. For the purposes of this paragraph:

16 (a) "New machinery and equipment" means machinery and equipment which
17 THAT have never been sold at retail except pursuant to leases or rentals
18 which do not total two years or more.

19 (b) "Self-powered implements" includes machinery and equipment that
20 are electric-powered.

21 14. Machinery or equipment used in research and development. For the
22 purposes of this paragraph, "research and development" means basic and
23 applied research in the sciences and engineering, and designing, developing
24 or testing prototypes, processes or new products, including research and
25 development of computer software that is embedded in or an integral part of
26 the prototype or new product or that is required for machinery or equipment
27 otherwise exempt under this section to function effectively. Research and
28 development do not include manufacturing quality control, routine consumer
29 product testing, market research, sales promotion, sales service, research in
30 social sciences or psychology, computer software research that is not
31 included in the definition of research and development, or other
32 nontechnological activities or technical services.

33 15. Machinery and equipment that are purchased by or on behalf of the
34 owners of a soundstage complex and primarily used for motion picture,
35 multimedia or interactive video production in the complex. This paragraph
36 applies only if the initial construction of the soundstage complex begins
37 after June 30, 1996 and before January 1, 2002 and the machinery and
38 equipment are purchased before the expiration of five years after the start
39 of initial construction. For the purposes of this paragraph:

40 (a) "Motion picture, multimedia or interactive video production"
41 includes products for theatrical and television release, educational
42 presentations, electronic retailing, documentaries, music videos, industrial
43 films, CD-ROM, video game production, commercial advertising and television
44 episode production and other genres that are introduced through developing
45 technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within

1 a production and packaging facility or the sorting or cooling of eggs. This
2 exemption does not apply to vehicles used for transporting eggs.

3 19. Machinery or equipment, including related structural components,
4 that is employed in connection with manufacturing, processing, fabricating,
5 job printing, refining, mining, natural gas pipelines, metallurgical
6 operations, telecommunications, producing or transmitting electricity or
7 research and development and that is used directly to meet or exceed rules or
8 regulations adopted by the federal energy regulatory commission, the United
9 States environmental protection agency, the United States nuclear regulatory
10 commission, the Arizona department of environmental quality or a political
11 subdivision of this state to prevent, monitor, control or reduce land, water
12 or air pollution.

13 20. Machinery and equipment that are sold to a person engaged in the
14 commercial production of livestock, livestock products or agricultural,
15 horticultural, viticultural or floricultural crops or products in this state
16 and that are used directly and primarily to prevent, monitor, control or
17 reduce air, water or land pollution.

18 21. Machinery or equipment that enables a television station to
19 originate and broadcast or to receive and broadcast digital television
20 signals and that was purchased to facilitate compliance with the
21 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
22 Code section 336) and the federal communications commission order issued
23 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
24 not exempt any of the following:

25 (a) Repair or replacement parts purchased for the machinery or
26 equipment described in this paragraph.

27 (b) Machinery or equipment purchased to replace machinery or equipment
28 for which an exemption was previously claimed and taken under this paragraph.

29 (c) Any machinery or equipment purchased after the television station
30 has ceased analog broadcasting, or purchased after November 1, 2009,
31 whichever occurs first.

32 22. Qualifying equipment that is purchased from and after June 30, 2004
33 through June 30, 2014 by a qualified business under section 41-1516 for
34 harvesting or the initial processing of qualifying forest products removed
35 from qualifying projects as defined in section 41-1516. To qualify for this
36 deduction, the qualified business at the time of purchase must present its
37 certification approved by the department.

38 ~~23. Machinery, equipment and other tangible personal property used~~
39 ~~directly in motion picture production by a motion picture production company.~~
40 ~~To qualify for this deduction, at the time of purchase, the motion picture~~
41 ~~production company must present to the retailer its certificate that is~~
42 ~~issued pursuant to section 42-5009, subsection H and that establishes its~~
43 ~~qualification for the deduction.~~

44 C. The deductions provided by subsection B of this section do not
45 include sales of:

1 1. Expendable materials. For the purposes of this paragraph,
2 expendable materials do not include any of the categories of tangible
3 personal property specified in subsection B of this section regardless of the
4 cost or useful life of that property.

5 2. Janitorial equipment and hand tools.

6 3. Office equipment, furniture and supplies.

7 4. Tangible personal property used in selling or distributing
8 activities, other than the telecommunications transmissions described in
9 subsection B, paragraph 16 of this section.

10 5. Motor vehicles required to be licensed by this state, except buses
11 or other urban mass transit vehicles specifically exempted pursuant to
12 subsection B, paragraph 11 of this section, without regard to the use of such
13 motor vehicles.

14 6. Shops, buildings, docks, depots and all other materials of whatever
15 kind or character not specifically included as exempt.

16 7. Motors and pumps used in drip irrigation systems.

17 D. In addition to the deductions from the tax base prescribed by
18 subsection A of this section, there shall be deducted from the tax base the
19 gross proceeds of sales or gross income derived from sales of machinery,
20 equipment, materials and other tangible personal property used directly and
21 predominantly to construct a qualified environmental technology
22 manufacturing, producing or processing facility as described in section
23 41-1514.02. This subsection applies for ten full consecutive calendar or
24 fiscal years after the start of initial construction.

25 E. In computing the tax base, gross proceeds of sales or gross income
26 from retail sales of heavy trucks and trailers does not include any amount
27 attributable to federal excise taxes imposed by 26 United States Code section
28 4051.

29 F. In computing the tax base, gross proceeds of sales or gross income
30 from the sale of use fuel, as defined in section 28-5601, does not include
31 any amount attributable to federal excise taxes imposed by 26 United States
32 Code section 4091.

33 G. If a person is engaged in an occupation or business to which
34 subsection A of this section applies, the person's books shall be kept so as
35 to show separately the gross proceeds of sales of tangible personal property
36 and the gross income from sales of services, and if not so kept the tax shall
37 be imposed on the total of the person's gross proceeds of sales of tangible
38 personal property and gross income from services.

39 H. If a person is engaged in the business of selling tangible personal
40 property at both wholesale and retail, the tax under this section applies
41 only to the gross proceeds of the sales made other than at wholesale if the
42 person's books are kept so as to show separately the gross proceeds of sales
43 of each class, and if the books are not so kept, the tax under this section
44 applies to the gross proceeds of every sale so made.

1 I. A person who engages in manufacturing, baling, crating, boxing,
2 barreling, canning, bottling, sacking, preserving, processing or otherwise
3 preparing for sale or commercial use any livestock, agricultural or
4 horticultural product or any other product, article, substance or commodity
5 and who sells the product of such business at retail in this state is deemed,
6 as to such sales, to be engaged in business classified under the retail
7 classification. This subsection does not apply to businesses classified
8 under the:

- 9 1. Transporting classification.
- 10 2. Utilities classification.
- 11 3. Telecommunications classification.
- 12 4. Pipeline classification.
- 13 5. Private car line classification.
- 14 6. Publication classification.
- 15 7. Job printing classification.
- 16 8. Prime contracting classification.
- 17 9. Owner builder sales classification.
- 18 10. Restaurant classification.

19 J. The gross proceeds of sales or gross income derived from the
20 following shall be deducted from the tax base for the retail classification:

- 21 1. Sales made directly to the United States government or its
22 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 23 2. Sales made directly to a manufacturer, modifier, assembler or
24 repairer if such sales are of any ingredient or component part of products
25 sold directly to the United States government or its departments or agencies
26 by the manufacturer, modifier, assembler or repairer.

27 3. Overhead materials or other tangible personal property that is used
28 in performing a contract between the United States government and a
29 manufacturer, modifier, assembler or repairer, including property used in
30 performing a subcontract with a government contractor who is a manufacturer,
31 modifier, assembler or repairer, to which title passes to the government
32 under the terms of the contract or subcontract.

33 4. Sales of overhead materials or other tangible personal property to
34 a manufacturer, modifier, assembler or repairer if the gross proceeds of
35 sales or gross income derived from the property by the manufacturer,
36 modifier, assembler or repairer will be exempt under paragraph 3 of this
37 subsection.

38 K. There shall be deducted from the tax base fifty per cent of the
39 gross proceeds or gross income from any sale of tangible personal property
40 made directly to the United States government or its departments or agencies,
41 which is not deducted under subsection J of this section.

42 L. The department shall require every person claiming a deduction
43 provided by subsection J or K of this section to file on forms prescribed by
44 the department at such times as the department directs a sworn statement

1 disclosing the name of the purchaser and the exact amount of sales on which
2 the exclusion or deduction is claimed.

3 M. In computing the tax base, gross proceeds of sales or gross income
4 does not include:

5 1. A manufacturer's cash rebate on the sales price of a motor vehicle
6 if the buyer assigns the buyer's right in the rebate to the retailer.

7 2. The waste tire disposal fee imposed pursuant to section 44-1302.

8 N. There shall be deducted from the tax base the amount received from
9 sales of solar energy devices. The retailer shall register with the
10 department as a solar energy retailer. By registering, the retailer
11 acknowledges that it will make its books and records relating to sales of
12 solar energy devices available to the department for examination.

13 O. In computing the tax base in the case of the sale or transfer of
14 wireless telecommunications equipment as an inducement to a customer to enter
15 into or continue a contract for telecommunications services that are taxable
16 under section 42-5064, gross proceeds of sales or gross income does not
17 include any sales commissions or other compensation received by the retailer
18 as a result of the customer entering into or continuing a contract for the
19 telecommunications services.

20 P. For the purposes of this section, a sale of wireless
21 telecommunications equipment to a person who holds the equipment for sale or
22 transfer to a customer as an inducement to enter into or continue a contract
23 for telecommunications services that are taxable under section 42-5064 is
24 considered to be a sale for resale in the regular course of business.

25 Q. Retail sales of prepaid calling cards or prepaid authorization
26 numbers for telecommunications services, including sales of reauthorization
27 of a prepaid card or authorization number, are subject to tax under this
28 section.

29 R. For the purposes of this section, the diversion of gas from a
30 pipeline by a person engaged in the business of:

31 1. Operating a natural or artificial gas pipeline, for the sole
32 purpose of fueling compressor equipment to pressurize the pipeline, is not a
33 sale of the gas to the operator of the pipeline.

34 2. Converting natural gas into liquefied natural gas, for the sole
35 purpose of fueling compressor equipment used in the conversion process, is
36 not a sale of gas to the operator of the compressor equipment.

37 S. If a seller is entitled to a deduction pursuant to subsection B,
38 paragraph 16, subdivision (b) of this section, the department may require the
39 purchaser to establish that the requirements of subsection B, paragraph 16,
40 subdivision (b) of this section have been satisfied. If the purchaser cannot
41 establish that the requirements of subsection B, paragraph 16, subdivision
42 (b) of this section have been satisfied, the purchaser is liable in an amount
43 equal to any tax, penalty and interest which the seller would have been
44 required to pay under article 1 of this chapter if the seller had not made a
45 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this

1 section. Payment of the amount under this subsection exempts the purchaser
2 from liability for any tax imposed under article 4 of this chapter and
3 related to the tangible personal property purchased. The amount shall be
4 treated as transaction privilege tax to the purchaser and as tax revenues
5 collected from the seller to designate the distribution base pursuant to
6 section 42-5029.

7 T. For the purposes of section 42-5032.01, the department shall
8 separately account for revenues collected under the retail classification
9 from businesses selling tangible personal property at retail:

10 1. On the premises of a multipurpose facility that is owned, leased or
11 operated by the tourism and sports authority pursuant to title 5, chapter 8.

12 2. At professional football contests that are held in a stadium
13 located on the campus of an institution under the jurisdiction of the Arizona
14 board of regents.

15 U. In computing the tax base for the sale of a motor vehicle to a
16 nonresident of this state, if the purchaser's state of residence allows a
17 corresponding use tax exemption to the tax imposed by article 1 of this
18 chapter and the rate of the tax in the purchaser's state of residence is
19 lower than the rate prescribed in article 1 of this chapter or if the
20 purchaser's state of residence does not impose an excise tax, and the
21 nonresident has secured a special ninety day nonresident registration permit
22 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
23 be deducted from the tax base a portion of the gross proceeds or gross income
24 from the sale so that the amount of transaction privilege tax that is paid in
25 this state is equal to the excise tax that is imposed by the purchaser's
26 state of residence on the nonexempt sale or use of the motor vehicle.

27 V. For the purposes of this section:

28 1. "Aircraft" includes:

29 (a) An airplane flight simulator that is approved by the federal
30 aviation administration for use as a phase II or higher flight simulator
31 under appendix H, 14 Code of Federal Regulations part 121.

32 (b) Tangible personal property that is permanently affixed or attached
33 as a component part of an aircraft that is owned or operated by a
34 certificated or licensed carrier of persons or property.

35 2. "Other accessories and related equipment" includes aircraft
36 accessories and equipment such as ground service equipment that physically
37 contact aircraft at some point during the overall carrier operation.

38 3. "Selling at retail" means a sale for any purpose other than for
39 resale in the regular course of business in the form of tangible personal
40 property, but transfer of possession, lease and rental as used in the
41 definition of sale mean only such transactions as are found on investigation
42 to be in lieu of sales as defined without the words lease or rental.

43 W. For the purposes of subsection J of this section:

1 1. "Assembler" means a person who unites or combines products, wares
2 or articles of manufacture so as to produce a change in form or substance
3 without changing or altering the component parts.

4 2. "Manufacturer" means a person who is principally engaged in the
5 fabrication, production or manufacture of products, wares or articles for use
6 from raw or prepared materials, imparting to those materials new forms,
7 qualities, properties and combinations.

8 3. "Modifier" means a person who reworks, changes or adds to products,
9 wares or articles of manufacture.

10 4. "Overhead materials" means tangible personal property, the gross
11 proceeds of sales or gross income derived from ~~which~~ THAT would otherwise be
12 included in the retail classification, and ~~which~~ THAT are used or consumed in
13 the performance of a contract, the cost of which is charged to an overhead
14 expense account and allocated to various contracts based upon ON generally
15 accepted accounting principles and consistent with government contract
16 accounting standards.

17 5. "Repairer" means a person who restores or renews products, wares or
18 articles of manufacture.

19 6. "Subcontract" means an agreement between a contractor and any
20 person who is not an employee of the contractor for furnishing of supplies or
21 services that, in whole or in part, are necessary to the performance of one
22 or more government contracts, or under which any portion of the contractor's
23 obligation under one or more government contracts is performed, undertaken or
24 assumed and that includes provisions causing title to overhead materials or
25 other tangible personal property used in the performance of the subcontract
26 to pass to the government or that includes provisions incorporating such
27 title passing clauses in a government contract into the subcontract.

28 Sec. 24. Section 42-5066, Arizona Revised Statutes, is amended to
29 read:

30 42-5066. Job printing classification

31 A. The job printing classification is comprised of the business of job
32 printing, engraving, embossing and copying.

33 B. The tax base for the job printing classification is the gross
34 proceeds of sales or gross income derived from the business, but the gross
35 proceeds of sales or gross income derived from the following shall be
36 deducted from the tax base:

37 1. Sales to a person in this state who has a transaction privilege tax
38 license issued in this state, and who does either of the following:

39 (a) Resells the job printing, engraving, embossing or copying.

40 (b) Distributes such printing, engraving, embossing or copying without
41 consideration in connection with the publication of a newspaper or magazine.

42 2. Sales of job printing, engraving, embossing and copying for use
43 outside this state if the materials are shipped or delivered out of this
44 state regardless of where title to the materials passes or their free on
45 board point.

3. Sales of personal property to:

(a) Qualifying hospitals as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

4. Sales of postage and freight except that the amount deducted shall not exceed the actual postage and freight expense that is paid to the United States postal service or a commercial delivery service and that is separately itemized by the taxpayer on the customer's invoice and in the taxpayer's records.

~~5. Sales to a motion picture production company that will use the job printing, engraving, embossing or copying directly in motion picture production. To qualify for this deduction, at the time of sale, the motion picture production company must present the job printer its certificate that is issued pursuant to section 42-5009, subsection H, and that establishes its qualifications for the deduction.~~

Sec. 25. Section 42-5070, Arizona Revised Statutes, is amended to read:

42-5070. Transient lodging classification; definition

A. The transient lodging classification is comprised of the business of operating, for occupancy by transients, a hotel or motel, including an inn, tourist home or house, dude ranch, resort, campground, studio or bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure, and also including a space, lot or slab which THAT is occupied or intended or designed for occupancy by transients in a mobile home or house trailer furnished by them for such occupancy.

B. The transient lodging classification does not include:

1. Operating a convalescent home or facility, home for the aged, hospital, jail, military installation or fraternity or sorority house or operating any structure exclusively by an association, institution, governmental agency or corporation for religious, charitable or educational purposes, if no part of the net earnings of the association, corporation or other entity inures to the benefit of any private shareholder or individual.

2. A lease or rental of a mobile home or house trailer at a fixed location or any other similar structure, and also including a space, lot or slab which THAT is occupied or intended or designed for occupancy by transients in a mobile home or house trailer furnished by them for such occupancy for thirty or more consecutive days.

3. Leasing or renting four or fewer rooms of an owner-occupied residential home, together with furnishing no more than a breakfast meal, to transient lodgers at no more than a fifty per cent average annual occupancy rate.

1 C. The tax base for the transient lodging classification is the gross
2 proceeds of sales or gross income derived from the business, except that the
3 tax base does not include:

4 ~~1. gross proceeds of sales or gross income derived from business~~
5 ~~activity that is properly included in another business classification under~~
6 ~~this article and that is taxable to the person engaged in that business~~
7 ~~classification, but the gross proceeds of sales or gross income to be~~
8 ~~deducted shall not exceed the consideration paid to the person conducting the~~
9 ~~activity.~~

10 ~~2. Gross proceeds of sales or gross income from leases or rentals of~~
11 ~~lodging space to a motion picture production company if, at the time of lease~~
12 ~~or rental, the motion picture production company presents to the business its~~
13 ~~certificate of qualification that is issued pursuant to section 42-5009,~~
14 ~~subsection H.~~

15 D. For the purposes of this section, the tax base for the transient
16 lodging classification does not include gross proceeds of sales or gross
17 income derived from:

18 1. Transactions or activities that are not limited to transients and
19 that would not be taxable if engaged in by a person not subject to tax under
20 this article.

21 2. Transactions or activities that are not limited to transients and
22 that would not be taxable if engaged in by a person subject to taxation under
23 section 42-5062 or 42-5073 due to an exclusion, exemption or deduction.

24 3. Commissions paid to a person that is engaged in transient lodging
25 business subject to taxation under this section by a person providing
26 services or property to the customers of the person engaging in the transient
27 lodging business.

28 E. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED
29 UNDER THE TRANSIENT LODGING CLASSIFICATION FOR THE PURPOSES OF SECTION
30 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION (b).

31 E. F. For the purposes of this section, "transient" means any person
32 who either at the person's own expense or at the expense of another obtains
33 lodging space or the use of lodging space on a daily or weekly basis, or on
34 any other basis for less than thirty consecutive days.

35 Sec. 26. Section 42-5073, Arizona Revised Statutes, is amended to
36 read:

37 42-5073. Amusement classification

38 A. The amusement classification is comprised of the business of
39 operating or conducting theaters, movies, operas, shows of any type or
40 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
41 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
42 alleys, public dances, dance halls, boxing and wrestling matches, skating
43 rinks, tennis courts, except as provided in subsection B of this section,
44 video games, pinball machines, sports events or any other business charging
45 admission or user fees for exhibition, amusement or entertainment, including

1 the operation or sponsorship of events by a tourism and sports authority
2 under title 5, chapter 8. For THE purposes of this section, admission or
3 user fees include, but are not limited to, any revenues derived from any form
4 of contractual agreement for rights to or use of premium or special seating
5 facilities or arrangements. The amusement classification does not include:

6 1. Activities or projects of bona fide religious or educational
7 institutions.

8 2. Private or group instructional activities. For the purposes of
9 this paragraph, "private or group instructional activities" includes, but is
10 not limited to, performing arts, martial arts, gymnastics and aerobic
11 instruction.

12 3. The operation or sponsorship of events by the Arizona exposition
13 and state fair board or county fair commissions.

14 4. A musical, dramatic or dance group or a botanical garden, museum or
15 zoo that is qualified as a nonprofit charitable organization under section
16 501(c)(3) of the United States internal revenue code and if no part of its
17 net income inures to the benefit of any private shareholder or individual.

18 5. Exhibition events in this state sponsored, conducted or operated by
19 a nonprofit organization that is exempt from taxation under section
20 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
21 organization is associated with major league baseball teams or a national
22 touring professional golfing association and no part of the organization's
23 net earnings inures to the benefit of any private shareholder or individual.

24 6. Operating or sponsoring rodeos that feature primarily farm and
25 ranch animals in this state and that are sponsored, conducted or operated by
26 a nonprofit organization that is exempt from taxation under section
27 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
28 revenue code and no part of the organization's net earnings inures to the
29 benefit of any private shareholder or individual.

30 7. Sales of admissions to intercollegiate football contests if the
31 contests are both:

32 (a) Operated by a nonprofit organization that is exempt from taxation
33 under section 501(c)(3) of the internal revenue code and no part of the
34 organization's net earnings inures to the benefit of any private shareholder
35 or individual.

36 (b) Not held in a multipurpose facility that is owned or operated by
37 the tourism and sports authority pursuant to title 5, chapter 8.

38 8. Activities and events of, or fees and assessments received by, a
39 homeowners organization from persons who are members of the organization or
40 accompanied guests of members. For the purposes of this paragraph,
41 "homeowners organization" means a mandatory membership organization comprised
42 of owners of residential property within a specified residential real estate
43 subdivision development or similar area and established to own property for
44 the benefit of its members where both of the following apply:

1 (a) No part of the organization's net earnings inures to the benefit
2 of any private shareholder or individual.

3 (b) The primary purpose of the organization is to provide for the
4 acquisition, construction, management, maintenance or care of organization
5 property.

6 9. Activities and events of, or fees received by, a nonprofit
7 organization that is exempt from taxation under section 501(c)(6) of the
8 internal revenue code if the organization produces, organizes or promotes
9 cultural or civic related festivals or events and no part of the
10 organization's net earnings inures to the benefit of any private shareholder
11 or individual.

12 10. Arranging an amusement activity as a service to a person's
13 customers if that person is not otherwise engaged in the business of
14 operating or conducting an amusement personally or through others. This
15 exception does not apply to businesses that operate or conduct amusements
16 pursuant to customer orders and send the billings and receive the payments
17 associated with that activity, including when the amusement is performed by
18 third party independent contractors. For the purposes of this paragraph,
19 "arranging" includes billing for or collecting amusement charges from a
20 person's customers on behalf of the persons providing the amusement.

21 B. The tax base for the amusement classification is the gross proceeds
22 of sales or gross income derived from the business, except that the following
23 shall be deducted from the tax base:

24 1. The gross proceeds of sales or gross income derived from
25 memberships, including initiation fees, which provide for the right to use a
26 health or fitness establishment or a private recreational establishment, or
27 any portion of an establishment, including tennis and other racquet courts at
28 that establishment, for participatory purposes for twenty-eight days or more
29 and fees charged for use of the health or fitness establishment or private
30 recreational establishment by bona fide accompanied guests of members, except
31 that this paragraph does not include additional fees, other than initiation
32 fees, charged by a health or fitness establishment or a private recreational
33 establishment for purposes other than memberships which provide for the right
34 to use a health or fitness establishment or private recreational
35 establishment, or any portion of an establishment, for participatory purposes
36 for twenty-eight days or more and accompanied guest use fees.

37 2. Amounts that are exempt under section 5-111, subsection H.

38 3. The gross proceeds of sales or gross income derived from membership
39 fees, including initiation fees, that provide for the right to use a
40 transient lodging recreational establishment, including golf courses and
41 tennis and other racquet courts at that establishment, for participatory
42 purposes for twenty-eight days or more, except that this paragraph does not
43 include additional fees, other than initiation fees, that are charged by a
44 transient lodging recreational establishment for purposes other than
45 memberships and that provide for the right to use a transient lodging

1 recreational establishment or any portion of the establishment for
2 participatory purposes for twenty-eight days or more.

3 4. The gross proceeds of sales or gross income derived from sales to
4 persons engaged in the business of transient lodging classified under section
5 42-5070, if all of the following apply:

6 (a) The persons who are engaged in the transient lodging business sell
7 the amusement to another person for consideration.

8 (b) The consideration received by the transient lodging business is
9 equal to or greater than the amount to be deducted under this subsection.

10 (c) The transient lodging business has provided an exemption
11 certificate to the person engaging in business under this section.

12 5. The gross proceeds of sales or gross income derived from:

13 (a) Business activity that is properly included in any other business
14 classification under this article and that is taxable to the person engaged
15 in that classification, but the gross proceeds of sales or gross income to be
16 deducted shall not exceed the consideration paid to the person conducting the
17 activity.

18 (b) Business activity that is arranged by the person who is subject to
19 tax under this section and that is not taxable to the person conducting the
20 activity due to an exclusion, exemption or deduction under this section or
21 section 42-5062, but the gross proceeds of sales or gross income to be
22 deducted shall not exceed the consideration paid to the person conducting the
23 activity.

24 (c) Business activity that is arranged by a person who is subject to
25 tax under this section and that is taxable to another person under this
26 section who conducts the activity, but the gross proceeds of sales or gross
27 income to be deducted shall not exceed the consideration paid to the person
28 conducting the activity.

29 C. For the purposes of subsection B of this section:

30 1. "Health or fitness establishment" means a facility whose primary
31 purpose is to provide facilities, equipment, instruction or education to
32 promote the health and fitness of its members and at least eighty per cent of
33 the monthly gross revenue of the facility is received through accounts of
34 memberships and accompanied guest use fees which provide for the right to use
35 the facility, or any portion of the facility, under the terms of the
36 membership agreement for participatory purposes for twenty-eight days or
37 more.

38 2. "Private recreational establishment" means a facility whose primary
39 purpose is to provide recreational facilities, such as tennis, golf and
40 swimming, for its members and where at least eighty per cent of the monthly
41 gross revenue of the facility is received through accounts of memberships and
42 accompanied guest use fees which provide for the right to use the facility,
43 or any portion of the facility, for participatory purposes for twenty-eight
44 days or more.

1 3. "Transient lodging recreational establishment" means a facility
2 whose primary purpose is to provide facilities for transient lodging, that is
3 subject to taxation under this chapter and that also provides recreational
4 facilities, such as tennis, golf and swimming, for members for a period of
5 twenty-eight days or more.

6 D. Until December 31, 1988, the revenues from hayrides and other
7 animal-drawn amusement rides, from horseback riding and riding instruction
8 and from recreational tours using motor vehicles designed to operate on and
9 off public highways are exempt from the tax imposed by this section.
10 Beginning January 1, 1989, the gross proceeds or gross income from hayrides
11 and other animal-drawn amusement rides, from horseback riding and from
12 recreational tours using motor vehicles designed to operate on and off public
13 highways are subject to taxation under this section. Tax liabilities,
14 penalties and interest paid for taxable periods before January 1, 1989 shall
15 not be refunded unless the taxpayer requesting the refund provides proof
16 satisfactory to the department that the taxes will be returned to the
17 customer.

18 E. If a person is engaged in the business of offering both exhibition,
19 amusement or entertainment and private or group instructional activities, the
20 person's books shall be kept to show separately the gross income from
21 exhibition, amusement or entertainment and the gross income from
22 instructional activities. If the books do not provide this separate
23 accounting, the tax is imposed on the person's total gross income from the
24 business.

25 F. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED
26 UNDER THE AMUSEMENT CLASSIFICATION FOR THE PURPOSES OF SECTION 42-5029,
27 SUBSECTION D, PARAGRAPH 4, SUBDIVISION (b).

28 ~~F.~~ G. For purposes of section 42-5032.01, the department shall
29 separately account for revenues collected under the amusement classification
30 from sales of admissions to:

31 1. Events that are held in a multipurpose facility that is owned or
32 operated by the tourism and sports authority pursuant to title 5, chapter 8,
33 including intercollegiate football contests that are operated by a nonprofit
34 organization that is exempt from taxation under section 501(c)(3) of the
35 internal revenue code.

36 2. Professional football contests that are held in a stadium located
37 on the campus of an institution under the jurisdiction of the Arizona board
38 of regents.

39 Sec. 27. Section 42-5074, Arizona Revised Statutes, is amended to
40 read:

41 42-5074. Restaurant classification

42 A. The restaurant classification is comprised of the business of
43 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,
44 soda fountains, catering services or similar establishments where articles of
45 food or drink are sold for consumption on or off the premises.

1 B. The tax base for the restaurant classification is the gross
2 proceeds of sales or gross income derived from the business. The gross
3 proceeds of sales or gross income derived from the following shall be
4 deducted from the tax base:

5 1. Sales to a person engaged in business classified under the
6 restaurant classification if the items sold are to be resold in the regular
7 course of the business.

8 2. Sales by a congressionally chartered veterans organization of food
9 or drink prepared for consumption on the premises leased, owned or maintained
10 by the organization.

11 3. Sales by churches, fraternal benefit societies and other nonprofit
12 organizations, as these organizations are defined in the federal internal
13 revenue code (26 United States Code section 501), which THAT do not regularly
14 engage or continue in the restaurant business for the purpose of
15 fund-raising.

16 4. Sales by a nonprofit organization that is exempt from taxation
17 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code
18 if the organization is associated with a major league baseball team or a
19 national touring professional golfing association and no part of the
20 organization's net earnings inures to the benefit of any private shareholder
21 or individual.

22 5. Sales at a rodeo featuring primarily farm and ranch animals in this
23 state by a nonprofit organization that is exempt from taxation under section
24 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
25 revenue code and no part of the organization's net earnings inures to the
26 benefit of any private shareholder or individual.

27 6. Sales by any nonprofit organization organized and operated
28 exclusively for charitable purposes and recognized by the United States
29 internal revenue service under section 501(c)(3) of the internal revenue
30 code.

31 7. Sales to qualifying hospitals as defined in section 42-5001.

32 8. Sales to a qualifying health care organization as defined in
33 section 42-5001 if the tangible personal property is used by the organization
34 solely to provide health and medical related educational and charitable
35 services.

36 9. Sales of food, drink and condiment for consumption within the
37 premises of any prison, jail or other institution under the jurisdiction of
38 the state department of corrections, the department of public safety, the
39 department of juvenile corrections or a county sheriff.

40 ~~10. Sales of catered food, drink and condiment to a motion picture~~
41 ~~production company. To qualify for this deduction, at the time of purchase,~~
42 ~~the motion picture production company must present to the business its~~
43 ~~certificate of qualification that is issued pursuant to section 42-5009,~~
44 ~~subsection H and that establishes its qualification for the deduction.~~

1 ~~11.~~ 10. Sales of articles of prepared or unprepared food, drink or
2 condiment and accessory tangible personal property to a school district or
3 charter school if the articles and accessory tangible personal property are
4 served to persons for consumption on the premises of a public school in the
5 school district or charter school during school hours.

6 ~~12.~~ 11. Prepared food, drink or condiment donated by a restaurant to a
7 nonprofit charitable organization that has qualified under section 501(c)(3)
8 of the internal revenue code and that regularly serves meals to the needy and
9 indigent on a continuing basis at no cost.

10 C. The tax imposed on the restaurant classification pursuant to this
11 section does not apply to the gross proceeds of sales or gross income from
12 tangible personal property sold to a commercial airline consisting of food,
13 beverages and condiments and accessories used for serving the food and
14 beverages, if those items are to be provided without additional charge to
15 passengers for consumption in flight. For the purposes of this subsection,
16 "commercial airline" means a person holding a federal certificate of public
17 convenience and necessity or foreign air carrier permit for air
18 transportation to transport persons, property or United States mail in
19 intrastate, interstate or foreign commerce.

20 D. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED
21 UNDER THE RESTAURANT CLASSIFICATION FOR THE PURPOSES OF SECTION 42-5029,
22 SUBSECTION D, PARAGRAPH 4, SUBDIVISION (b).

23 ~~D.~~ E. For purposes of section 42-5032.01, the department shall
24 separately account for revenues collected under the restaurant classification
25 from businesses operating restaurants, dining rooms, lunchrooms, lunch
26 stands, soda fountains, catering services or similar establishments:

27 1. On the premises of a multipurpose facility that is owned or
28 operated by the tourism and sports authority pursuant to title 5, chapter 8
29 for consumption on or off the premises.

30 2. At professional football contests that are held in a stadium
31 located on the campus of an institution under the jurisdiction of the Arizona
32 board of regents.

33 Sec. 28. Section 42-5075, Arizona Revised Statutes, is amended to
34 read:

35 42-5075. Prime contracting classification; exemptions;
36 definitions

37 A. The prime contracting classification is comprised of the business
38 of prime contracting and dealership of manufactured buildings. Sales for
39 resale to another dealership of manufactured buildings are not subject to
40 tax. Sales for resale do not include sales to a lessor of manufactured
41 buildings. The sale of a used manufactured building is not taxable under
42 this chapter. The proceeds from alteration and repairs to a used
43 manufactured building are taxable under this section.

44 B. The tax base for the prime contracting classification is sixty-five
45 per cent of the gross proceeds of sales or gross income derived from the

1 business. The following amounts shall be deducted from the gross proceeds of
2 sales or gross income before computing the tax base:

3 1. The sales price of land, which shall not exceed the fair market
4 value.

5 2. Sales and installation of groundwater measuring devices required
6 under section 45-604 and groundwater monitoring wells required by law,
7 including monitoring wells installed for acquiring information for a permit
8 required by law.

9 3. The sales price of furniture, furnishings, fixtures, appliances and
10 attachments that are not incorporated as component parts of or attached to a
11 manufactured building or the setup site. The sale of such items may be
12 subject to the taxes imposed by article 1 of this chapter separately and
13 distinctly from the sale of the manufactured building.

14 4. The gross proceeds of sales or gross income received from a
15 contract entered into for the construction, alteration, repair, addition,
16 subtraction, improvement, movement, wrecking or demolition of any building,
17 highway, road, railroad, excavation, manufactured building or other
18 structure, project, development or improvement located in a military reuse
19 zone for providing aviation or aerospace services or for a manufacturer,
20 assembler or fabricator of aviation or aerospace products within an active
21 military reuse zone after the zone is initially established or renewed under
22 section 41-1531. To be eligible to qualify for this deduction, before
23 beginning work under the contract, the prime contractor must have applied for
24 a letter of qualification from the department of revenue.

25 5. The gross proceeds of sales or gross income derived from a contract
26 to construct a qualified environmental technology manufacturing, producing or
27 processing facility, as described in section 41-1514.02, and from subsequent
28 construction and installation contracts that begin within ten years after the
29 start of initial construction. To qualify for this deduction, before
30 beginning work under the contract, the prime contractor must obtain a letter
31 of qualification from the department of revenue. This paragraph shall apply
32 for ten full consecutive calendar or fiscal years after the start of initial
33 construction.

34 6. The gross proceeds of sales or gross income from a contract to
35 provide for one or more of the following actions, or a contract for site
36 preparation, constructing, furnishing or installing machinery, equipment or
37 other tangible personal property, including structures necessary to protect
38 exempt incorporated materials or installed machinery or equipment, and
39 tangible personal property incorporated into the project, to perform one or
40 more of the following actions in response to a release or suspected release
41 of a hazardous substance, pollutant or contaminant from a facility to the
42 environment, unless the release was authorized by a permit issued by a
43 governmental authority:

44 (a) Actions to monitor, assess and evaluate such a release or a
45 suspected release.

(b) Excavation, removal and transportation of contaminated soil and its treatment or disposal.

(c) Treatment of contaminated soil by vapor extraction, chemical or physical stabilization, soil washing or biological treatment to reduce the concentration, toxicity or mobility of a contaminant.

(d) Pumping and treatment or in situ treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminant.

(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.

This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

7. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, or that is exempt from use tax pursuant to section 42-5159, subsection B, and that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement. If the ownership of the realty is separate from the ownership of the machinery, equipment or tangible personal property, the determination as to permanent attachment shall be made as if the ownership were the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which THAT consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B or that is exempt from use tax pursuant to section 42-5159, subsection B. For the purposes of this paragraph, "permanent attachment" means at least one of the following:

(a) To be incorporated into real property.

(b) To become so affixed to real property that it becomes a part of the real property.

(c) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

~~8. Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to section 9-499.08 if the prime contractor maintains the following~~

~~records in a form satisfactory to the department and to the city or town in which the property is located;~~

~~(a) The certificate of qualification of the lake facility development issued by the city or town pursuant to section 9-499.08, subsection D.~~

~~(b) All state and local transaction privilege tax returns for the period of time during which the prime contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.~~

~~(c) Any other information that the department considers to be necessary.~~

~~9.~~ 8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph 25 or 29.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (i), (j) or (l).

(d) Section 42-5159, subsection B.

~~10.~~ 9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

~~11.~~ 10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

~~12.~~ 11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 17.

~~13.~~ 12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

~~14.~~ 13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy

1 device. The contractor shall register with the department as a solar energy
2 contractor. By registering, the contractor acknowledges that it will make
3 its books and records relating to sales of solar energy devices available to
4 the department for examination.

5 ~~15.~~ 14. The gross proceeds of sales or gross income derived from a
6 contract entered into for the construction of a launch site, as defined in 14
7 Code of Federal Regulations section 401.5.

8 ~~16.~~ 15. The gross proceeds of sales or gross income derived from a
9 contract entered into for the construction of a domestic violence shelter
10 that is owned and operated by a nonprofit charitable organization that has
11 qualified under section 501(c)(3) of the internal revenue code.

12 ~~17.~~ 16. The gross proceeds of sales or gross income derived from
13 contracts to perform postconstruction treatment of real property for termite
14 and general pest control, including wood destroying organisms.

15 ~~18.~~ 17. The gross proceeds of sales or gross income received from
16 contracts entered into before July 1, 2006 for constructing a state
17 university research infrastructure project if the project has been reviewed
18 by the joint committee on capital review before the university enters into
19 the construction contract for the project. For the purposes of this
20 paragraph, "research infrastructure" has the same meaning prescribed in
21 section 15-1670.

22 ~~19.~~ 18. The gross proceeds of sales or gross income received from a
23 contract for the construction of any building, or other structure, project,
24 development or improvement owned by a qualified business under section
25 41-1516 for harvesting or the initial processing of qualifying forest
26 products removed from qualifying projects as defined in section 41-1516 if
27 actual construction begins before January 1, 2010. To qualify for this
28 deduction, the prime contractor must obtain a letter of qualification from
29 the department of commerce ARIZONA COMMERCE AUTHORITY before beginning work
30 under the contract.

31 ~~20. The gross proceeds of sales or gross income received from a~~
32 ~~contract for the construction of any building or other structure associated~~
33 ~~with motion picture production in this state. To qualify for the deduction,~~
34 ~~at the time the contract is entered into the motion picture production~~
35 ~~company must present to the prime contractor its certificate that is issued~~
36 ~~pursuant to section 42-5009, subsection H and that establishes its~~
37 ~~qualification for the deduction.~~

38 ~~21.~~ 19. Any amount of the gross proceeds of sales or gross income
39 attributable to development fees that are incurred in relation to a contract
40 for construction, development or improvement of real property and that are
41 paid by a prime contractor or subcontractor. For the purposes of this
42 paragraph:

43 (a) The attributable amount shall not exceed the value of the
44 development fees actually imposed.

1 (b) The attributable amount is equal to the total amount of
2 development fees paid by the prime contractor or subcontractor, and the total
3 development fees credited in exchange for the construction of, contribution
4 to or dedication of real property for providing public infrastructure, public
5 safety or other public services necessary to the development. The real
6 property must be the subject of the development fees.

7 (c) "Development fees" means fees imposed to offset capital costs of
8 providing public infrastructure, public safety or other public services to a
9 development and authorized pursuant to section 9-463.05, section 11-1102 or
10 title 48 regardless of the jurisdiction to which the fees are paid.

11 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
12 of this section is subject to the following provisions:

13 1. A prime contractor may establish entitlement to the deduction by
14 both:

15 (a) Marking the invoice for the transaction to indicate that the gross
16 proceeds of sales or gross income derived from the transaction was deducted
17 from the base.

18 (b) Obtaining a certificate executed by the purchaser indicating the
19 name and address of the purchaser, the precise nature of the business of the
20 purchaser, the purpose for which the purchase was made, the necessary facts
21 to establish the deductibility of the property under section 42-5061,
22 subsection B, and a certification that the person executing the certificate
23 is authorized to do so on behalf of the purchaser. The certificate may be
24 disregarded if the prime contractor has reason to believe that the
25 information contained in the certificate is not accurate or complete.

26 2. A person who does not comply with paragraph 1 of this subsection
27 may establish entitlement to the deduction by presenting facts necessary to
28 support the entitlement, but the burden of proof is on that person.

29 3. The department may prescribe a form for the certificate described
30 in paragraph 1, subdivision (b) of this subsection. The department may also
31 adopt rules that describe the transactions with respect to which a person is
32 not entitled to rely solely on the information contained in the certificate
33 provided in paragraph 1, subdivision (b) of this subsection but must instead
34 obtain such additional information as required in order to be entitled to the
35 deduction.

36 4. If a prime contractor is entitled to a deduction by complying with
37 paragraph 1 of this subsection, the department may require the purchaser who
38 caused the execution of the certificate to establish the accuracy and
39 completeness of the information required to be contained in the certificate
40 which THAT would entitle the prime contractor to the deduction. If the
41 purchaser cannot establish the accuracy and completeness of the information,
42 the purchaser is liable in an amount equal to any tax, penalty and interest
43 which THAT the prime contractor would have been required to pay under article
44 1 of this chapter if the prime contractor had not complied with paragraph 1
45 of this subsection. Payment of the amount under this paragraph exempts the

1 purchaser from liability for any tax imposed under article 4 of this
2 chapter. The amount shall be treated as a transaction privilege tax to the
3 purchaser and as tax revenues collected from the prime contractor in order to
4 designate the distribution base for purposes of section 42-5029.

5 D. Subcontractors or others who perform services in respect to any
6 improvement, building, highway, road, railroad, excavation, manufactured
7 building or other structure, project, development or improvement are not
8 subject to tax if they can demonstrate that the job was within the control of
9 a prime contractor or contractors or a dealership of manufactured buildings
10 and that the prime contractor or dealership is liable for the tax on the
11 gross income, gross proceeds of sales or gross receipts attributable to the
12 job and from which the subcontractors or others were paid.

13 E. Amounts received by a contractor for a project are excluded from
14 the contractor's gross proceeds of sales or gross income derived from the
15 business if the person who hired the contractor executes and provides a
16 certificate to the contractor stating that the person providing the
17 certificate is a prime contractor and is liable for the tax under article 1
18 of this chapter. The department shall prescribe the form of the certificate.
19 If the contractor has reason to believe that the information contained on the
20 certificate is erroneous or incomplete, the department may disregard the
21 certificate. If the person who provides the certificate is not liable for
22 the tax as a prime contractor, that person is nevertheless deemed to be the
23 prime contractor in lieu of the contractor and is subject to the tax under
24 this section on the gross receipts or gross proceeds received by the
25 contractor.

26 F. Every person engaging or continuing in this state in the business
27 of prime contracting or dealership of manufactured buildings shall present to
28 the purchaser of such prime contracting or manufactured building a written
29 receipt of the gross income or gross proceeds of sales from such activity and
30 shall separately state the taxes to be paid pursuant to this section.

31 G. For the purposes of section 42-5032.01, the department shall
32 separately account for revenues collected under the prime contracting
33 classification from any prime contractor engaged in the preparation or
34 construction of a multipurpose facility, and related infrastructure, that is
35 owned, operated or leased by the tourism and sports authority pursuant to
36 title 5, chapter 8.

37 H. The gross proceeds of sales or gross income derived from a contract
38 for lawn maintenance services are not subject to tax under this section if
39 the contract does not include landscaping activities. Lawn maintenance
40 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
41 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
42 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
43 lawn de-thatching, seeding winter lawns, leaf and debris collection and
44 removal, tree or shrub pruning or clipping, garden and gravel raking and

1 applying pesticides, as defined in section 3-361, and fertilizer materials,
2 as defined in section 3-262.

3 I. The gross proceeds of sales or gross income derived from
4 landscaping activities are subject to tax under this section. Landscaping
5 includes installing lawns, grading or leveling ground, installing gravel or
6 boulders, planting trees and other plants, felling trees, removing or
7 mulching tree stumps, removing other imbedded plants, building or modifying
8 irrigation berms, repairing sprinkler or watering systems, installing
9 railroad ties and installing underground sprinkler or watering systems.

10 J. The portion of gross proceeds of sales or gross income attributable
11 to the actual direct costs of providing architectural or engineering services
12 that are incorporated in a contract is not subject to tax under this section.
13 For the purposes of this subsection, "direct costs" means the portion of the
14 actual costs that are directly expended in providing architectural or
15 engineering services.

16 K. Operating a landfill or a solid waste disposal facility is not
17 subject to taxation under this section, including filling, compacting and
18 creating vehicle access to and from cell sites within the landfill.
19 Constructing roads to a landfill or solid waste disposal facility and
20 constructing cells within a landfill or solid waste disposal facility may be
21 deemed prime contracting under this section.

22 L. The following apply to manufactured buildings:

23 1. For sales in this state where the dealership of manufactured
24 buildings contracts to deliver the building to a setup site or to perform the
25 setup in this state, the taxable situs is the setup site.

26 2. For sales in this state where the dealership of manufactured
27 buildings does not contract to deliver the building to a setup site or does
28 not perform the setup, the taxable situs is the location of the dealership
29 where the building is delivered to the buyer.

30 3. For sales in this state where the dealership of manufactured
31 buildings contracts to deliver the building to a setup site that is outside
32 this state, the situs is outside this state and the transaction is excluded
33 from tax.

34 M. The gross proceeds of sales or gross income attributable to a
35 separate, written design phase services contract or professional services
36 contract, executed before modification begins, is not subject to tax under
37 this section, regardless of whether the services are provided sequential to
38 or concurrent with prime contracting activities that are subject to tax under
39 this section. This subsection does not include the gross proceeds of sales
40 or gross income attributable to construction phase services. For the
41 purposes of this subsection:

42 1. "Construction phase services" means services for the execution and
43 completion of any modification, including the following:

44 (a) Administration or supervision of any modification performed on the
45 project, including team management and coordination, scheduling, cost

1 controls, submittal process management, field management, safety program,
2 close-out process and warranty period services.

3 (b) Administration or supervision of any modification performed
4 pursuant to a punch list. For the purposes of this subdivision, "punch list"
5 means minor items of modification work performed after substantial completion
6 and before final completion of the project.

7 (c) Administration or supervision of any modification performed
8 pursuant to change orders. For the purposes of this subdivision, "change
9 order" means a written instrument issued after execution of a contract for
10 modification work, providing for all of the following:

11 (i) The scope of a change in the modification work, contract for
12 modification work or other contract documents.

13 (ii) The amount of an adjustment, if any, to the guaranteed maximum
14 price as set in the contract for modification work. For the purposes of this
15 item, "guaranteed maximum price" means the amount guaranteed to be the
16 maximum amount due to a prime contractor for the performance of all
17 modification work for the project.

18 (iii) The extent of an adjustment, if any, to the contract time of
19 performance set forth in the contract.

20 (d) Administration or supervision of any modification performed
21 pursuant to change directives. For the purposes of this subdivision, "change
22 directive" means a written order directing a change in modification work
23 before agreement on an adjustment of the guaranteed maximum price or contract
24 time.

25 (e) Inspection to determine the dates of substantial completion or
26 final completion.

27 (f) Preparation of any manuals, warranties, as-built drawings, spares
28 or other items the prime contractor must furnish pursuant to the contract for
29 modification work. For the purposes of this subdivision, "as-built drawing"
30 means a drawing that indicates field changes made to adapt to field
31 conditions, field changes resulting from change orders or buried and
32 concealed installation of piping, conduit and utility services.

33 (g) Preparation of status reports after modification work has begun
34 detailing the progress of work performed, including preparation of any of the
35 following:

36 (i) Master schedule updates.

37 (ii) Modification work cash flow projection updates.

38 (iii) Site reports made on a periodic basis.

39 (iv) Identification of discrepancies, conflicts or ambiguities in
40 modification work documents that require resolution.

41 (v) Identification of any health and safety issues that have arisen in
42 connection with the modification work.

43 (h) Preparation of daily logs of modification work, including
44 documentation of personnel, weather conditions and on-site occurrences.

1 (i) Preparation of any submittals or shop drawings used by the prime
2 contractor to illustrate details of the modification work performed.

3 (j) Administration or supervision of any other activities for which a
4 prime contractor receives a certificate for payment or certificate for final
5 payment based on the progress of modification work performed on the project.

6 2. "Design phase services" means services for developing and
7 completing a design for a project that are not construction phase services,
8 including the following:

9 (a) Evaluating surveys, reports, test results or any other information
10 on-site conditions for the project, including physical characteristics, legal
11 limitations and utility locations for the site.

12 (b) Evaluating any criteria or programming objectives for the project
13 to ascertain requirements for the project, such as physical requirements
14 affecting cost or projected utilization of the project.

15 (c) Preparing drawings and specifications for architectural program
16 documents, schematic design documents, design development documents,
17 modification work documents or documents that identify the scope of or
18 materials for the project.

19 (d) Preparing an initial schedule for the project, excluding the
20 preparation of updates to the master schedule after modification work has
21 begun.

22 (e) Preparing preliminary estimates of costs of modification work
23 before completion of the final design of the project, including an estimate
24 or schedule of values for any of the following:

25 (i) Labor, materials, machinery and equipment, tools, water, heat,
26 utilities, transportation and other facilities and services used in the
27 execution and completion of modification work, regardless of whether they are
28 temporary or permanent or whether they are incorporated in the
29 modifications.

30 (ii) The cost of labor and materials to be furnished by the owner of
31 the real property.

32 (iii) The cost of any equipment of the owner of the real property to
33 be assigned by the owner to the prime contractor.

34 (iv) The cost of any labor for installation of equipment separately
35 provided by the owner of the real property that has been designed, specified,
36 selected or specifically provided for in any design document for the project.

37 (v) Any fee paid by the owner of the real property to the prime
38 contractor pursuant to the contract for modification work.

39 (vi) Any bond and insurance premiums.

40 (vii) Any applicable taxes.

41 (viii) Any contingency fees for the prime contractor that may be used
42 before final completion of the project.

43 (f) Reviewing and evaluating cost estimates and project documents to
44 prepare recommendations on site use, site improvements, selection of
45 materials, building systems and equipment, modification feasibility,

1 availability of materials and labor, local modification activity as related
2 to schedules and time requirements for modification work.

3 (g) Preparing the plan and procedures for selection of subcontractors,
4 including any prequalification of subcontractor candidates.

5 3. "Professional services" means architect services, assayer services,
6 engineer services, geologist services, land surveying services or landscape
7 architect services that are within the scope of those services as provided in
8 title 32, chapter 1 and for which gross proceeds of sales or gross income has
9 not otherwise been deducted under subsection J of this section.

10 N. Notwithstanding subsection O, paragraph 8 of this section, a person
11 owning real property who enters into a contract for sale of the real
12 property, who is responsible to the new owner of the property for
13 modifications made to the property in the period subsequent to the transfer
14 of title and who receives a consideration for the modifications is considered
15 a prime contractor solely for purposes of taxing the gross proceeds of sale
16 or gross income received for the modifications made subsequent to the
17 transfer of title. The original owner's gross proceeds of sale or gross
18 income received for the modifications shall be determined according to the
19 following methodology:

20 1. If any part of the contract for sale of the property specifies
21 amounts to be paid to the original owner for the modifications to be made in
22 the period subsequent to the transfer of title, the amounts are included in
23 the original owner's gross proceeds of sale or gross income under this
24 section. Proceeds from the sale of the property that are received after
25 transfer of title and that are unrelated to the modifications made subsequent
26 to the transfer of title are not considered gross proceeds of sale or gross
27 income from the modifications.

28 2. If the original owner enters into an agreement separate from the
29 contract for sale of the real property providing for amounts to be paid to
30 the original owner for the modifications to be made in the period subsequent
31 to the transfer of title to the property, the amounts are included in the
32 original owner's gross proceeds of sale or gross income received for the
33 modifications made subsequent to the transfer of title.

34 3. If the original owner is responsible to the new owner for
35 modifications made to the property in the period subsequent to the transfer
36 of title and derives any gross proceeds of sale or gross income from the
37 project subsequent to the transfer of title other than a delayed disbursement
38 from escrow unrelated to the modifications, it is presumed that the amounts
39 are received for the modifications made subsequent to the transfer of title
40 unless the contrary is established by the owner through its books, records
41 and papers kept in the regular course of business.

42 4. The tax base of the original owner is computed in the same manner
43 as a prime contractor under this section.

44 O. For the purposes of this section:

45 1. "Contracting" means engaging in business as a contractor.

2. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such contractor is acting in fulfillment of a contract.

3. "Dealership of manufactured buildings" means a dealer who either:
(a) Is licensed pursuant to title 41, chapter 16 and who sells manufactured buildings to the final consumer.

(b) Supervises, performs or coordinates the excavation and completion of site improvements, setup or moving of a manufactured building including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-2142.

5. "Modification" means construction, alteration, repair, addition, subtraction, improvement, movement, wreckage or demolition.

6. "Modify" means to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish.

7. "Prime contracting" means engaging in business as a prime contractor.

8. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections E and N of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

9. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

Sec. 29. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1 1. Tangible personal property sold in this state, the gross receipts
2 from the sale of which are included in the measure of the tax imposed by
3 articles 1 and 2 of this chapter.

4 2. Tangible personal property the sale or use of which has already
5 been subjected to an excise tax at a rate equal to or exceeding the tax
6 imposed by this article under the laws of another state of the United States.
7 If the excise tax imposed by the other state is at a rate less than the tax
8 imposed by this article, the tax imposed by this article is reduced by the
9 amount of the tax already imposed by the other state.

10 3. Tangible personal property, the storage, use or consumption of
11 which the constitution or laws of the United States prohibit this state from
12 taxing or to the extent that the rate or imposition of tax is
13 unconstitutional under the laws of the United States.

14 4. Tangible personal property which directly enters into and becomes
15 an ingredient or component part of any manufactured, fabricated or processed
16 article, substance or commodity for sale in the regular course of business.

17 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
18 which in this state is subject to the tax imposed under title 28, chapter 16,
19 article 1, use fuel which is sold to or used by a person holding a valid
20 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
21 the sales, distribution or use of which in this state is subject to the tax
22 imposed under section 28-8344, and jet fuel, the sales, distribution or use
23 of which in this state is subject to the tax imposed under article 8 of this
24 chapter.

25 6. Tangible personal property brought into this state by an individual
26 who was a nonresident at the time the property was purchased for storage, use
27 or consumption by the individual if the first actual use or consumption of
28 the property was outside this state, unless the property is used in
29 conducting a business in this state.

30 7. Purchases of implants used as growth promotants and injectable
31 medicines, not already exempt under paragraph 16 of this subsection, for
32 livestock and poultry owned by, or in possession of, persons who are engaged
33 in producing livestock, poultry, or livestock or poultry products, or who are
34 engaged in feeding livestock or poultry commercially. For the purposes of
35 this paragraph, "poultry" includes ratites.

36 8. Livestock, poultry, supplies, feed, salts, vitamins and other
37 additives for use or consumption in the businesses of farming, ranching and
38 feeding livestock or poultry, not including fertilizers, herbicides and
39 insecticides. For the purposes of this paragraph, "poultry" includes
40 ratites.

41 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
42 material for use in commercially producing agricultural, horticultural,
43 viticultural or floricultural crops in this state.

1 10. Tangible personal property not exceeding two hundred dollars in any
2 one month purchased by an individual at retail outside the continental limits
3 of the United States for the individual's own personal use and enjoyment.

4 11. Advertising supplements which are intended for sale with newspapers
5 published in this state and which have already been subjected to an excise
6 tax under the laws of another state in the United States which equals or
7 exceeds the tax imposed by this article.

8 12. Materials that are purchased by or for publicly funded libraries
9 including school district libraries, charter school libraries, community
10 college libraries, state university libraries or federal, state, county or
11 municipal libraries for use by the public as follows:

12 (a) Printed or photographic materials, beginning August 7, 1985.

13 (b) Electronic or digital media materials, beginning July 17, 1994.

14 13. Tangible personal property purchased by:

15 (a) A hospital organized and operated exclusively for charitable
16 purposes, no part of the net earnings of which inures to the benefit of any
17 private shareholder or individual.

18 (b) A hospital operated by this state or a political subdivision of
19 this state.

20 (c) A licensed nursing care institution or a licensed residential care
21 institution or a residential care facility operated in conjunction with a
22 licensed nursing care institution or a licensed kidney dialysis center, which
23 provides medical services, nursing services or health related services and is
24 not used or held for profit.

25 (d) A qualifying health care organization, as defined in section
26 42-5001, if the tangible personal property is used by the organization solely
27 to provide health and medical related educational and charitable services.

28 (e) A qualifying health care organization as defined in section
29 42-5001 if the organization is dedicated to providing educational,
30 therapeutic, rehabilitative and family medical education training for blind,
31 visually impaired and multihandicapped children from the time of birth to age
32 twenty-one.

33 (f) A nonprofit charitable organization that has qualified under
34 section 501(c)(3) of the United States internal revenue code and that engages
35 in and uses such property exclusively in programs for mentally or physically
36 handicapped persons if the programs are exclusively for training, job
37 placement, rehabilitation or testing.

38 (g) A person that is subject to tax under article 1 of this chapter by
39 reason of being engaged in business classified under the prime contracting
40 classification under section 42-5075, or a subcontractor working under the
41 control of a prime contractor, if the tangible personal property is any of
42 the following:

43 (i) Incorporated or fabricated by the contractor into a structure,
44 project, development or improvement in fulfillment of a contract.

(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

~~(iii) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.~~

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(i) A qualifying community health center as defined in section 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo

1 featuring primarily farm and ranch animals and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.

3 16. Drugs and medical oxygen, including delivery hose, mask or tent,
4 regulator and tank, on the prescription of a member of the medical, dental or
5 veterinarian profession who is licensed by law to administer such substances.

6 17. Prosthetic appliances, as defined in section 23-501, prescribed or
7 recommended by a person who is licensed, registered or otherwise
8 professionally credentialed as a physician, dentist, podiatrist,
9 chiropractor, naturopath, homeopath, nurse or optometrist.

10 18. Prescription eyeglasses and contact lenses.

11 19. Insulin, insulin syringes and glucose test strips.

12 20. Hearing aids as defined in section 36-1901.

13 21. Durable medical equipment which has a centers for medicare and
14 medicaid services common procedure code, is designated reimbursable by
15 medicare, is prescribed by a person who is licensed under title 32, chapter
16 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
17 used to serve a medical purpose, is generally not useful to a person in the
18 absence of illness or injury and is appropriate for use in the home.

19 22. Food, as provided in and subject to the conditions of article 3 of
20 this chapter and section 42-5074.

21 23. Items purchased with United States department of agriculture food
22 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
23 958) or food instruments issued under section 17 of the child nutrition act
24 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
25 section 1786).

26 24. Food and drink provided without monetary charge by a taxpayer which
27 is subject to section 42-5074 to its employees for their own consumption on
28 the premises during the employees' hours of employment.

29 25. Tangible personal property that is used or consumed in a business
30 subject to section 42-5074 for human food, drink or condiment, whether
31 simple, mixed or compounded.

32 26. Food, drink or condiment and accessory tangible personal property
33 that are acquired for use by or provided to a school district or charter
34 school if they are to be either served or prepared and served to persons for
35 consumption on the premises of a public school in the school district or on
36 the premises of the charter school during school hours.

37 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
38 article 1.

39 28. Textbooks, sold by a bookstore, that are required by any state
40 university or community college.

41 29. Magazines, other periodicals or other publications produced by this
42 state to encourage tourist travel.

43 30. Paper machine clothing, such as forming fabrics and dryer felts,
44 purchased by a paper manufacturer and directly used or consumed in paper
45 manufacturing.

1 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
2 purchased by a qualified environmental technology manufacturer, producer or
3 processor as defined in section 41-1514.02 and directly used or consumed in
4 the generation or provision of on-site power or energy solely for
5 environmental technology manufacturing, producing or processing or
6 environmental protection. This paragraph shall apply for twenty full
7 consecutive calendar or fiscal years from the date the first paper
8 manufacturing machine is placed in service. In the case of an environmental
9 technology manufacturer, producer or processor who does not manufacture
10 paper, the time period shall begin with the date the first manufacturing,
11 processing or production equipment is placed in service.

12 32. Motor vehicles that are removed from inventory by a motor vehicle
13 dealer as defined in section 28-4301 and that are provided to:

14 (a) Charitable or educational institutions that are exempt from
15 taxation under section 501(c)(3) of the internal revenue code.

16 (b) Public educational institutions.

17 (c) State universities or affiliated organizations of a state
18 university if no part of the organization's net earnings inures to the
19 benefit of any private shareholder or individual.

20 33. Natural gas or liquefied petroleum gas used to propel a motor
21 vehicle.

22 34. Machinery, equipment, technology or related supplies that are only
23 useful to assist a person who is physically disabled as defined in section
24 46-191, has a developmental disability as defined in section 36-551 or has a
25 head injury as defined in section 41-3201 to be more independent and
26 functional.

27 35. Liquid, solid or gaseous chemicals used in manufacturing,
28 processing, fabricating, mining, refining, metallurgical operations, research
29 and development and, beginning on January 1, 1999, printing, if using or
30 consuming the chemicals, alone or as part of an integrated system of
31 chemicals, involves direct contact with the materials from which the product
32 is produced for the purpose of causing or permitting a chemical or physical
33 change to occur in the materials as part of the production process. This
34 paragraph does not include chemicals that are used or consumed in activities
35 such as packaging, storage or transportation but does not affect any
36 exemption for such chemicals that is otherwise provided by this section. For
37 the purposes of this paragraph, "printing" means a commercial printing
38 operation and includes job printing, engraving, embossing, copying and
39 bookbinding.

40 36. Food, drink and condiment purchased for consumption within the
41 premises of any prison, jail or other institution under the jurisdiction of
42 the state department of corrections, the department of public safety, the
43 department of juvenile corrections or a county sheriff.

44 37. A motor vehicle and any repair and replacement parts and tangible
45 personal property becoming a part of such motor vehicle sold to a motor

1 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
2 and who is engaged in the business of leasing or renting such property.

3 38. Tangible personal property which is or directly enters into and
4 becomes an ingredient or component part of cards used as prescription plan
5 identification cards.

6 39. Overhead materials or other tangible personal property that is used
7 in performing a contract between the United States government and a
8 manufacturer, modifier, assembler or repairer, including property used in
9 performing a subcontract with a government contractor who is a manufacturer,
10 modifier, assembler or repairer, to which title passes to the government
11 under the terms of the contract or subcontract. For the purposes of this
12 paragraph:

13 (a) "Overhead materials" means tangible personal property, the gross
14 proceeds of sales or gross income derived from which would otherwise be
15 included in the retail classification, and which are used or consumed in the
16 performance of a contract, the cost of which is charged to an overhead
17 expense account and allocated to various contracts based upon generally
18 accepted accounting principles and consistent with government contract
19 accounting standards.

20 (b) "Subcontract" means an agreement between a contractor and any
21 person who is not an employee of the contractor for furnishing of supplies or
22 services that, in whole or in part, are necessary to the performance of one
23 or more government contracts, or under which any portion of the contractor's
24 obligation under one or more government contracts is performed, undertaken or
25 assumed, and that includes provisions causing title to overhead materials or
26 other tangible personal property used in the performance of the subcontract
27 to pass to the government or that includes provisions incorporating such
28 title passing clauses in a government contract into the subcontract.

29 40. Through December 31, 1994, tangible personal property sold pursuant
30 to a personal property liquidation transaction, as defined in section
31 42-5061. From and after December 31, 1994, tangible personal property sold
32 pursuant to a personal property liquidation transaction, as defined in
33 section 42-5061, if the gross proceeds of the sales were included in the
34 measure of the tax imposed by article 1 of this chapter or if the personal
35 property liquidation was a casual activity or transaction.

36 41. Wireless telecommunications equipment that is held for sale or
37 transfer to a customer as an inducement to enter into or continue a contract
38 for telecommunications services that are taxable under section 42-5064.

39 42. Alternative fuel, as defined in section 1-215, purchased by a used
40 oil fuel burner who has received a permit to burn used oil or used oil fuel
41 under section 49-426 or 49-480.

42 43. Tangible personal property purchased by a commercial airline and
43 consisting of food, beverages and condiments and accessories used for serving
44 the food and beverages, if those items are to be provided without additional
45 charge to passengers for consumption in flight. For the purposes of this

1 paragraph, "commercial airline" means a person holding a federal certificate
2 of public convenience and necessity or foreign air carrier permit for air
3 transportation to transport persons, property or United States mail in
4 intrastate, interstate or foreign commerce.

5 44. Alternative fuel vehicles if the vehicle was manufactured as a
6 diesel fuel vehicle and converted to operate on alternative fuel and
7 equipment that is installed in a conventional diesel fuel motor vehicle to
8 convert the vehicle to operate on an alternative fuel, as defined in section
9 1-215.

10 45. Gas diverted from a pipeline, by a person engaged in the business
11 of:

12 (a) Operating a natural or artificial gas pipeline, and used or
13 consumed for the sole purpose of fueling compressor equipment that
14 pressurizes the pipeline.

15 (b) Converting natural gas into liquefied natural gas, and used or
16 consumed for the sole purpose of fueling compressor equipment used in the
17 conversion process.

18 46. Tangible personal property that is excluded, exempt or deductible
19 from transaction privilege tax pursuant to section 42-5063.

20 47. Tangible personal property purchased to be incorporated or
21 installed as part of environmental response or remediation activities under
22 section 42-5075, subsection B, paragraph 6.

23 48. Tangible personal property sold by a nonprofit organization that is
24 exempt from taxation under section 501(c)(6) of the internal revenue code if
25 the organization produces, organizes or promotes cultural or civic related
26 festivals or events and no part of the organization's net earnings inures to
27 the benefit of any private shareholder or individual.

28 49. Prepared food, drink or condiment donated by a restaurant as
29 classified in section 42-5074, subsection A to a nonprofit charitable
30 organization that has qualified under section 501(c)(3) of the internal
31 revenue code and that regularly serves meals to the needy and indigent on a
32 continuing basis at no cost.

33 50. Application services that are designed to assess or test student
34 learning or to promote curriculum design or enhancement purchased by or for
35 any school district, charter school, community college or state university.
36 For the purposes of this paragraph:

37 (a) "Application services" means software applications provided
38 remotely using hypertext transfer protocol or another network protocol.

39 (b) "Curriculum design or enhancement" means planning, implementing or
40 reporting on courses of study, lessons, assignments or other learning
41 activities.

42 B. In addition to the exemptions allowed by subsection A of this
43 section, the following categories of tangible personal property are also
44 exempt:

1 1. Machinery, or equipment, used directly in manufacturing,
2 processing, fabricating, job printing, refining or metallurgical operations.
3 The terms "manufacturing", "processing", "fabricating", "job printing",
4 "refining" and "metallurgical" as used in this paragraph refer to and include
5 those operations commonly understood within their ordinary meaning.
6 "Metallurgical operations" includes leaching, milling, precipitating,
7 smelting and refining.

8 2. Machinery, or equipment, used directly in the process of extracting
9 ores or minerals from the earth for commercial purposes, including equipment
10 required to prepare the materials for extraction and handling, loading or
11 transporting such extracted material to the surface. "Mining" includes
12 underground, surface and open pit operations for extracting ores and
13 minerals.

14 3. Tangible personal property sold to persons engaged in business
15 classified under the telecommunications classification under section 42-5064
16 and consisting of central office switching equipment, switchboards, private
17 branch exchange equipment, microwave radio equipment and carrier equipment
18 including optical fiber, coaxial cable and other transmission media which are
19 components of carrier systems.

20 4. Machinery, equipment or transmission lines used directly in
21 producing or transmitting electrical power, but not including distribution.
22 Transformers and control equipment used at transmission substation sites
23 constitute equipment used in producing or transmitting electrical power.

24 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
25 to be used as breeding or production stock, including sales of breedings or
26 ownership shares in such animals used for breeding or production.

27 6. Pipes or valves four inches in diameter or larger used to transport
28 oil, natural gas, artificial gas, water or coal slurry, including compressor
29 units, regulators, machinery and equipment, fittings, seals and any other
30 part that is used in operating the pipes or valves.

31 7. Aircraft, navigational and communication instruments and other
32 accessories and related equipment sold to:

33 (a) A person holding a federal certificate of public convenience and
34 necessity, a supplemental air carrier certificate under federal aviation
35 regulations (14 Code of Federal Regulations part 121) or a foreign air
36 carrier permit for air transportation for use as or in conjunction with or
37 becoming a part of aircraft to be used to transport persons, property or
38 United States mail in intrastate, interstate or foreign commerce.

39 (b) Any foreign government, or sold to persons who are not residents
40 of this state and who will not use such property in this state other than in
41 removing such property from this state.

42 8. Machinery, tools, equipment and related supplies used or consumed
43 directly in repairing, remodeling or maintaining aircraft, aircraft engines
44 or aircraft component parts by or on behalf of a certificated or licensed
45 carrier of persons or property.

1 9. Rolling stock, rails, ties and signal control equipment used
2 directly to transport persons or property.

3 10. Machinery or equipment used directly to drill for oil or gas or
4 used directly in the process of extracting oil or gas from the earth for
5 commercial purposes.

6 11. Buses or other urban mass transit vehicles which are used directly
7 to transport persons or property for hire or pursuant to a governmentally
8 adopted and controlled urban mass transportation program and which are sold
9 to bus companies holding a federal certificate of convenience and necessity
10 or operated by any city, town or other governmental entity or by any person
11 contracting with such governmental entity as part of a governmentally adopted
12 and controlled program to provide urban mass transportation.

13 12. Groundwater measuring devices required under section 45-604.

14 13. New machinery and equipment consisting of tractors, tractor-drawn
15 implements, self-powered implements, machinery and equipment necessary for
16 extracting milk, and machinery and equipment necessary for cooling milk and
17 livestock, and drip irrigation lines not already exempt under paragraph 6 of
18 this subsection and that are used for commercial production of agricultural,
19 horticultural, viticultural and floricultural crops and products in this
20 state. For the purposes of this paragraph:

21 (a) "New machinery and equipment" means machinery or equipment which
22 has never been sold at retail except pursuant to leases or rentals which do
23 not total two years or more.

24 (b) "Self-powered implements" includes machinery and equipment that
25 are electric-powered.

26 14. Machinery or equipment used in research and development. For the
27 purposes of this paragraph, "research and development" means basic and
28 applied research in the sciences and engineering, and designing, developing
29 or testing prototypes, processes or new products, including research and
30 development of computer software that is embedded in or an integral part of
31 the prototype or new product or that is required for machinery or equipment
32 otherwise exempt under this section to function effectively. Research and
33 development do not include manufacturing quality control, routine consumer
34 product testing, market research, sales promotion, sales service, research in
35 social sciences or psychology, computer software research that is not
36 included in the definition of research and development, or other
37 nontechnological activities or technical services.

38 15. Machinery and equipment that are purchased by or on behalf of the
39 owners of a soundstage complex and primarily used for motion picture,
40 multimedia or interactive video production in the complex. This paragraph
41 applies only if the initial construction of the soundstage complex begins
42 after June 30, 1996 and before January 1, 2002 and the machinery and
43 equipment are purchased before the expiration of five years after the start
44 of initial construction. For the purposes of this paragraph:

1 (a) "Motion picture, multimedia or interactive video production"
2 includes products for theatrical and television release, educational
3 presentations, electronic retailing, documentaries, music videos, industrial
4 films, CD-ROM, video game production, commercial advertising and television
5 episode production and other genres that are introduced through developing
6 technology.

7 (b) "Soundstage complex" means a facility of multiple stages including
8 production offices, construction shops and related areas, prop and costume
9 shops, storage areas, parking for production vehicles and areas that are
10 leased to businesses that complement the production needs and orientation of
11 the overall facility.

12 16. Tangible personal property that is used by either of the following
13 to receive, store, convert, produce, generate, decode, encode, control or
14 transmit telecommunications information:

15 (a) Any direct broadcast satellite television or data transmission
16 service that operates pursuant to 47 Code of Federal Regulations part 25.

17 (b) Any satellite television or data transmission facility, if both of
18 the following conditions are met:

19 (i) Over two-thirds of the transmissions, measured in megabytes,
20 transmitted by the facility during the test period were transmitted to or on
21 behalf of one or more direct broadcast satellite television or data
22 transmission services that operate pursuant to 47 Code of Federal Regulations
23 part 25.

24 (ii) Over two-thirds of the transmissions, measured in megabytes,
25 transmitted by or on behalf of those direct broadcast television or data
26 transmission services during the test period were transmitted by the facility
27 to or on behalf of those services.

28 For the purposes of subdivision (b) of this paragraph, "test period" means
29 the three hundred sixty-five day period beginning on the later of the date on
30 which the tangible personal property is purchased or the date on which the
31 direct broadcast satellite television or data transmission service first
32 transmits information to its customers.

33 17. Clean rooms that are used for manufacturing, processing,
34 fabrication or research and development, as defined in paragraph 14 of this
35 subsection, of semiconductor products. For the purposes of this paragraph,
36 "clean room" means all property that comprises or creates an environment
37 where humidity, temperature, particulate matter and contamination are
38 precisely controlled within specified parameters, without regard to whether
39 the property is actually contained within that environment or whether any of
40 the property is affixed to or incorporated into real property. Clean room:

41 (a) Includes the integrated systems, fixtures, piping, movable
42 partitions, lighting and all property that is necessary or adapted to reduce
43 contamination or to control airflow, temperature, humidity, chemical purity
44 or other environmental conditions or manufacturing tolerances, as well as the

1 production machinery and equipment operating in conjunction with the clean
2 room environment.

3 (b) Does not include the building or other permanent, nonremovable
4 component of the building that houses the clean room environment.

5 18. Machinery and equipment that are used directly in the feeding of
6 poultry, the environmental control of housing for poultry, the movement of
7 eggs within a production and packaging facility or the sorting or cooling of
8 eggs. This exemption does not apply to vehicles used for transporting eggs.

9 19. Machinery or equipment, including related structural components,
10 that is employed in connection with manufacturing, processing, fabricating,
11 job printing, refining, mining, natural gas pipelines, metallurgical
12 operations, telecommunications, producing or transmitting electricity or
13 research and development and that is used directly to meet or exceed rules or
14 regulations adopted by the federal energy regulatory commission, the United
15 States environmental protection agency, the United States nuclear regulatory
16 commission, the Arizona department of environmental quality or a political
17 subdivision of this state to prevent, monitor, control or reduce land, water
18 or air pollution.

19 20. Machinery and equipment that are used in the commercial production
20 of livestock, livestock products or agricultural, horticultural, viticultural
21 or floricultural crops or products in this state and that are used directly
22 and primarily to prevent, monitor, control or reduce air, water or land
23 pollution.

24 21. Machinery or equipment that enables a television station to
25 originate and broadcast or to receive and broadcast digital television
26 signals and that was purchased to facilitate compliance with the
27 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
28 Code section 336) and the federal communications commission order issued
29 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
30 not exempt any of the following:

31 (a) Repair or replacement parts purchased for the machinery or
32 equipment described in this paragraph.

33 (b) Machinery or equipment purchased to replace machinery or equipment
34 for which an exemption was previously claimed and taken under this paragraph.

35 (c) Any machinery or equipment purchased after the television station
36 has ceased analog broadcasting, or purchased after November 1, 2009,
37 whichever occurs first.

38 22. Qualifying equipment that is purchased from and after June 30, 2004
39 through June 30, 2014 by a qualified business under section 41-1516 for
40 harvesting or the initial processing of qualifying forest products removed
41 from qualifying projects as defined in section 41-1516. To qualify for this
42 exemption, the qualified business must obtain and present its certification
43 from the Arizona commerce authority at the time of purchase.

44 ~~23. Machinery, equipment and other tangible personal property used~~
45 ~~directly in motion picture production by a motion picture production company.~~

~~To qualify for this exemption, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the exemption.~~

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to:

1. The storage, use or consumption in Arizona of machinery, equipment, materials or other tangible personal property if used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02. This paragraph applies for ten full consecutive calendar or fiscal years after the start of initial construction.

2. The purchase of electricity by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for twenty full consecutive calendar

1 or fiscal years from the date the first paper manufacturing machine is placed
2 in service. In the case of an environmental technology manufacturer,
3 producer or processor who does not manufacture paper, the time period shall
4 begin with the date the first manufacturing, processing or production
5 equipment is placed in service.

6 3. The purchase of solar energy devices from a retailer that is
7 registered with the department as a solar energy retailer or a solar energy
8 contractor.

9 F. The following shall be deducted in computing the purchase price of
10 electricity by a retail electric customer from a utility business:

11 1. Fees charged by a municipally owned utility to persons constructing
12 residential, commercial or industrial developments or connecting residential,
13 commercial or industrial developments to a municipal utility system or
14 systems if the fees are segregated and used only for capital expansion,
15 system enlargement or debt service of the utility system or systems.

16 2. Reimbursement or contribution compensation to any person or persons
17 owning a utility system for property and equipment installed to provide
18 utility access to, on or across the land of an actual utility consumer if the
19 property and equipment become the property of the utility. This deduction
20 shall not exceed the value of such property and equipment.

21 G. For the purposes of subsection B of this section:

22 1. "Aircraft" includes:

23 (a) An airplane flight simulator that is approved by the federal
24 aviation administration for use as a phase II or higher flight simulator
25 under appendix H, 14 Code of Federal Regulations part 121.

26 (b) Tangible personal property that is permanently affixed or attached
27 as a component part of an aircraft that is owned or operated by a
28 certificated or licensed carrier of persons or property.

29 2. "Other accessories and related equipment" includes aircraft
30 accessories and equipment such as ground service equipment that physically
31 contact aircraft at some point during the overall carrier operation.

32 H. For the purposes of subsection D of this section, "ancillary
33 services", "electric distribution service", "electric generation service",
34 "electric transmission service" and "other services" have the same meanings
35 prescribed in section 42-5063.

36 Sec. 30. Repeal

37 Section 42-6104, Arizona Revised Statutes, is repealed.

38 Sec. 31. Section 42-6105, Arizona Revised Statutes, is amended to
39 read:

40 42-6105. County transportation excise tax; counties with
41 population of one million two hundred thousand or
42 more persons

43 A. If approved by the qualified electors voting at a countywide
44 election, a county with a population of one million two hundred thousand or

1 more persons shall levy and the department shall collect a tax as provided by
2 this section, in addition to all other taxes.

3 B. The tax shall be levied and collected:

4 1. At a rate of not more than ten per cent of the transaction
5 privilege tax rate prescribed by section 42-5010, subsection A applying, as
6 of January 1, 1990:—

7 (a) to each person engaging or continuing in the county in a business
8 taxed under chapter 5, article 1 of this title.

9 ~~(b) Except that for the purposes of this paragraph with respect to the~~
10 ~~prime contracting classification under section 42-5075, the gross proceeds of~~
11 ~~sales or gross income that is deductible pursuant to section 42-5075,~~
12 ~~subsection B, paragraph 8 or pursuant to section 42-5061, subsection A,~~
13 ~~paragraph 27 for sales to a contractor who is exempt under section 42-5075,~~
14 ~~subsection B, paragraph 8 shall be included in the tax base for purposes of~~
15 ~~this paragraph.~~

16 2. In the case of persons subject to the tax imposed under section
17 42-5352, subsection A, at a rate of not more than .305 cents per gallon of
18 jet fuel sold.

19 3. On the use or consumption of electricity or natural gas by retail
20 electric or natural gas customers in the county who are subject to use tax
21 under section 42-5155, at a rate equal to the transaction privilege tax rate
22 under paragraph 1 of this subsection applying to persons engaging or
23 continuing in the county in the utilities transaction privilege tax
24 classification.

25 ~~C. A tax under this section may not be levied at the same time as a~~
26 ~~tax in the county under section 42-6104. A tax levy under this section shall~~
27 ~~not begin until the expiration of the tax under section 42-6104.~~

28 ~~D. C.~~ The tax levied under this section shall be in effect for a term
29 of twenty years.

30 ~~E. D.~~ The net revenues collected under this section shall be
31 distributed and deposited as follows for use consistent with the regional
32 transportation plan adopted under title 28, chapter 17, article 1:

33 1. 56.2 per cent to the regional area road fund pursuant to section
34 28-6303 for freeways and other routes in the state highway system, including
35 capital expense and maintenance.

36 2. 10.5 per cent to the regional area road fund pursuant to section
37 28-6303 for major arterial streets and intersection improvements, including
38 capital expense and implementation studies.

39 3. 33.3 per cent to the public transportation fund pursuant to section
40 48-5103 for:

41 (a) Capital costs, maintenance and operation of public transportation
42 classifications.

43 (b) Capital costs and utility relocation costs associated with a light
44 rail public transit system.

1 Sec. 32. Section 42-6106, Arizona Revised Statutes, is amended to
2 read:

3 42-6106. County transportation excise tax

4 A. If approved by the qualified electors voting at a countywide
5 election, the regional transportation authority in any county shall levy and
6 the department shall collect a transportation excise tax up to the rate
7 authorized by this section in addition to all other taxes.

8 B. The tax shall be levied and collected:

9 1. At a rate of not more than ten per cent of the transaction
10 privilege tax rate prescribed by section 42-5010, subsection A in effect on
11 January 1, 1990:—

12 (a) to each person engaging or continuing in the county in a business
13 taxed under chapter 5, article 1 of this title.

14 (b) ~~Except that for the purposes of this paragraph with respect to the~~
15 ~~prime contracting classification under section 42-5075, the gross proceeds of~~
16 ~~sales or gross income that is deductible pursuant to section 42-5075,~~
17 ~~subsection B, paragraph 8 or pursuant to section 42-5061, subsection A,~~
18 ~~paragraph 27 for sales to a contractor who is exempt under section 42-5075,~~
19 ~~subsection B, paragraph 8 shall be included in the tax base for purposes of~~
20 ~~this paragraph.~~

21 2. In the case of persons subject to the tax imposed under section
22 42-5352, subsection A, at a rate of not more than .305 cents per gallon of
23 jet fuel sold.

24 3. On the use or consumption of electricity or natural gas by retail
25 electric or natural gas customers in the county who are subject to use tax
26 under section 42-5155, at a rate equal to the transaction privilege tax rate
27 under paragraph 1 applying to persons engaging or continuing in the county in
28 the utilities transaction privilege tax classification.

29 C. Any subsequent reduction in the transaction privilege tax rate
30 prescribed by chapter 5, article 1 of this title shall not reduce the tax
31 that is approved and collected as prescribed in this section. The department
32 shall collect the tax at a variable rate if the variable rate is specified in
33 the ballot proposition. The department shall collect the tax at a modified
34 rate if approved by a majority of the qualified electors voting.

35 D. The net revenues collected under this section:

36 1. In counties with a population exceeding four hundred thousand
37 persons, shall be deposited in the regional transportation fund pursuant to
38 section 48-5307.

39 2. In counties with a population of four hundred thousand or fewer
40 persons, shall be deposited in the public transportation authority fund
41 pursuant to section 28-9142 or the regional transportation fund pursuant to
42 section 48-5307 or shall be allocated between both funds.

43 E. The tax shall be levied under this section beginning January 1 or
44 July 1, whichever date occurs first after approval by the voters, and may be
45 in effect for a period of not more than twenty years.

1 Sec. 33. Section 42-6203, Arizona Revised Statutes, is amended to
2 read:

3 42-6203. Rates of tax

4 A. Except as otherwise provided in this section, if a lease of a
5 government property improvement was entered into before June 1, 2010, or if a
6 development agreement, ordinance or resolution was approved by the governing
7 body of the government lessor before June 1, 2010 that authorized a lease on
8 the occurrence of specified conditions and the lease was entered into within
9 ten years after the date the development agreement was entered into or the
10 ordinance or resolution was approved by the governing body:

11 1. The tax authorized by this article shall be levied and collected at
12 the following rates:

13 (a) One dollar per square foot of gross building space for office
14 buildings with one floor above ground.

15 (b) One dollar twenty-five cents per square foot of gross building
16 space for office buildings with more than one but fewer than eight floors
17 above ground.

18 (c) One dollar seventy-five cents per square foot of gross building
19 space for office buildings with eight floors or more above ground.

20 (d) One dollar fifty cents per square foot of retail building space,
21 including space that is devoted to the sale of tangible personal property,
22 restaurants, health clubs, hair salons, dry cleaners, travel agencies and
23 other retail services.

24 (e) One dollar fifty cents per square foot of hotel or motel building
25 space.

26 (f) Seventy-five cents per square foot of warehouse or industrial
27 building space.

28 (g) Fifty cents per square foot of residential rental building space.

29 (h) One hundred dollars per parking space located in a parking garage
30 or deck.

31 (i) One dollar per square foot of all other government property
32 improvements not included in subdivisions (a) through (h) of this paragraph.

33 2. The tax rate for government property improvements for which the
34 original certificate of occupancy was issued:

35 (a) At least ten years but less than twenty years before the date the
36 tax is due is eighty per cent of the rate provided in paragraph 1 of this
37 subsection.

38 (b) At least twenty years but less than thirty years before the date
39 the tax is due is sixty per cent of the rate provided in paragraph 1 of this
40 subsection.

41 (c) At least thirty but less than forty years before the date the tax
42 is due is forty per cent of the rate provided in paragraph 1 of this
43 subsection.

1 (d) At least forty but less than fifty years before the date the tax
2 is due is twenty per cent of the rate provided in paragraph 1 of this
3 subsection.

4 (e) Fifty or more years before the date the tax is due is zero.

5 3. If no certificate of occupancy can be located, dated aerial
6 photographs or other evidence of substantial completion may be used to
7 determine the age of the building for purposes of paragraph 2 of this
8 subsection.

9 4. A lease or development agreement, originally subject to this
10 subsection, that is subsequently amended remains subject to this subsection
11 if the amended lease or development agreement meets all of the following
12 requirements:

13 (a) The government lessor determines that the amendment furthers the
14 original purpose of the lease or development agreement.

15 (b) Any land added under the amendment is contiguous to the land under
16 the original lease or development agreement and does not increase the land
17 area under the original lease or development agreement by more than fifty per
18 cent.

19 (c) Any government property improvement added under the amendment does
20 not increase the area of gross building space of government property
21 improvements under the original lease or development agreement by more than
22 one hundred per cent.

23 B. Except as otherwise provided in this section, if a lease of a
24 government property improvement does not meet the conditions for applying
25 subsection A of this section:

26 1. Subject to paragraphs 2 and 3 of this subsection, the tax
27 authorized by this article shall be levied and collected at the following
28 base rates, which apply through December 31, 2011:

29 (a) Two dollars per square foot of gross building space for office
30 buildings with one floor above ground.

31 (b) Two dollars thirty cents per square foot of gross building space
32 for office buildings with more than one but fewer than eight floors above
33 ground.

34 (c) Three dollars ten cents per square foot of gross building space
35 for office buildings with eight floors or more above ground.

36 (d) Two dollars fifty-one cents per square foot of retail building
37 space, including space that is devoted to the sale of tangible personal
38 property, restaurants, health clubs, hair salons, dry cleaners, travel
39 agencies and other retail services.

40 (e) Two dollars per square foot of hotel or motel building space.

41 (f) One dollar thirty-five cents per square foot of warehouse or
42 industrial building space.

43 (g) Seventy-six cents per square foot of residential rental building
44 space.

1 (h) Two hundred dollars per parking space located in a parking garage
2 or deck.

3 (i) Two dollars per square foot of all other government property
4 improvements not included in subdivisions (a) through (h) of this paragraph.

5 2. If, in the tax year in which the lease of the government property
6 improvement is entered into, the aggregate of all ad valorem property tax
7 rates of all taxing jurisdictions in which the government property
8 improvement is located is ~~within~~ AT LEAST ninety per cent ~~and one hundred ten~~
9 ~~per cent~~ of the countywide average combined property tax rates, the rate of
10 tax prescribed by paragraph 1 of this subsection, as currently adjusted
11 pursuant to paragraph 3 of this subsection, applies with respect to that
12 government property improvement. If, in the tax year in which the lease of
13 the government property improvement is entered into, the aggregate of all ad
14 valorem property tax rates of all taxing jurisdictions in which the
15 government property improvement is located is less than ninety per cent of
16 the countywide average combined property tax rates, the rate of tax
17 prescribed by paragraph 1 of this subsection, as currently adjusted pursuant
18 to paragraph 3 of this subsection, shall be reduced by ten per cent.

19 3. On or before December 1, 2011 and December 1 of each year
20 thereafter, for all government property leases that are subject to this
21 subsection the department of revenue shall adjust the tax rates that apply
22 under paragraphs 1 and 2 of this subsection in the following calendar year
23 for each property use according to the average annual positive or negative
24 percentage change for the two most recent fiscal years in the producer price
25 index for new construction or its successor index published by the United
26 States bureau of labor statistics. On or before December 15 of each year,
27 the department shall post the adjusted rates for the following calendar year
28 on its official website and transmit the adjusted rates to each county
29 treasurer.

30 C. The tax rate for a government property improvement that was
31 constructed pursuant to a lease or development agreement entered into from
32 and after June 30, 1996 and that is located outside a slum or blighted area
33 established pursuant to title 36, chapter 12, article 3 is one and one-half
34 times the rate established by subsections A and B of this section.

35 D. Within the first twenty years after the issuance of the original
36 certificate of occupancy, the tax rate on the use or occupancy of a
37 government property improvement is twenty per cent of the rate established in
38 subsections A and B of this section for any of the following:

39 1. Government property improvements that are subject to leases or
40 agreements that were entered into before April 1, 1985, and options and
41 rights contained in the leases or agreements.

42 2. Government property improvements that are subject to leases entered
43 into based on a redevelopment contract, as defined in section 36-1471,
44 entered into before April 1, 1985.

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1 article that was or is initially assessed during tax year 1994 through tax
2 year 2007 as follows:

3 1. For the first tax year of assessment, the assessor shall use
4 thirty-five per cent of the scheduled depreciated value.

5 2. For the second tax year of assessment, the assessor shall use
6 fifty-one per cent of the scheduled depreciated value.

7 3. For the third tax year of assessment, the assessor shall use
8 sixty-seven per cent of the scheduled depreciated value.

9 4. For the fourth tax year of assessment, the assessor shall use
10 eighty-three per cent of the scheduled depreciated value.

11 5. For the fifth and subsequent tax years of assessment, the assessor
12 shall use the scheduled depreciated value as prescribed by the department's
13 guidelines.

14 B. Except as provided in subsection ~~C~~ D and notwithstanding any other
15 law, the department shall adjust depreciation schedules for use by the
16 assessors to determine the valuation of personal property valued under this
17 article that was or is initially assessed during ~~or after~~ tax year 2008
18 THROUGH TAX YEAR 2011 as follows:

19 1. For the first tax year of assessment, the assessor shall use thirty
20 per cent of the scheduled depreciated value.

21 2. For the second tax year of assessment, the assessor shall use
22 forty-six per cent of the scheduled depreciated value.

23 3. For the third tax year of assessment, the assessor shall use
24 sixty-two per cent of the scheduled depreciated value.

25 4. For the fourth tax year of assessment, the assessor shall use
26 seventy-eight per cent of the scheduled depreciated value.

27 5. For the fifth tax year of assessment, the assessor shall use
28 ninety-four per cent of the scheduled depreciated value.

29 6. For the sixth and subsequent tax years of assessment, the assessor
30 shall use the scheduled depreciated value as prescribed in the department's
31 guidelines.

32 C. EXCEPT AS PROVIDED IN SUBSECTION D AND NOTWITHSTANDING ANY OTHER
33 LAW, THE DEPARTMENT SHALL ADJUST DEPRECIATION SCHEDULES FOR USE BY THE
34 ASSESSORS TO DETERMINE THE VALUATION OF PERSONAL PROPERTY VALUED UNDER THIS
35 ARTICLE THAT WAS OR IS INITIALLY ASSESSED DURING OR AFTER TAX YEAR 2012 AS
36 FOLLOWS:

37 1. FOR THE FIRST TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
38 TWENTY-FIVE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

39 2. FOR THE SECOND TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
40 FORTY-ONE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

41 3. FOR THE THIRD TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
42 FIFTY-SEVEN PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

43 4. FOR THE FOURTH TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
44 SEVENTY-THREE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

1 5. FOR THE FIFTH TAX YEAR OF ASSESSMENT, THE ASSESSOR SHALL USE
2 EIGHTY-NINE PER CENT OF THE SCHEDULED DEPRECIATED VALUE.

3 6. FOR THE SIXTH AND SUBSEQUENT TAX YEARS OF ASSESSMENT, THE ASSESSOR
4 SHALL USE THE SCHEDULED DEPRECIATED VALUE AS PRESCRIBED IN THE DEPARTMENT'S
5 GUIDELINES.

6 ~~E.~~ D. The additional depreciation prescribed in ~~subsection A~~ THIS
7 SECTION shall not reduce the valuation below the minimum value prescribed by
8 the department for property in use.

9 Sec. 35. Section 42-15006, Arizona Revised Statutes, is amended to
10 read:

11 42-15006. Assessed valuation of class six property

12 The assessed valuation of class six property described in section
13 42-12006 is ~~based on the following percentages to~~ FIVE PER CENT OF the full
14 cash value or limited valuation of class six property, as applicable. ~~:-~~

15 ~~1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6,~~
16 ~~7, 8 and 9, five per cent.~~

17 ~~2. Property described in section 42-12006, paragraph 4:-~~

18 ~~(a) For primary property tax purposes, five per cent.~~

19 ~~(b) Except as provided in subdivision (c), for secondary property tax~~
20 ~~purposes:-~~

21 ~~(i) Twenty five per cent through December 31, 2006.~~

22 ~~(ii) Twenty four per cent beginning from and after December 31, 2006~~
23 ~~through December 31, 2007.~~

24 ~~(iii) Twenty three per cent beginning from and after December 31, 2007~~
25 ~~through December 31, 2008.~~

26 ~~(iv) Twenty two per cent beginning from and after December 31, 2008~~
27 ~~through December 31, 2009.~~

28 ~~(v) Twenty one per cent beginning from and after December 31, 2009~~
29 ~~through December 31, 2010.~~

30 ~~(vi) Twenty per cent beginning from and after December 31, 2010.~~

31 ~~(c) If subdivision (b) is finally adjudicated to be invalid, for~~
32 ~~secondary property tax purposes, five per cent.~~

33 Sec. 36. Repeal

34 Section 43-106, Arizona Revised Statutes, is repealed.

35 Sec. 37. Section 43-401, Arizona Revised Statutes, is amended to read:

36 43-401. Withholding tax; rates; election by employee

37 A. Except as provided by subsection B of this section, every employer
38 at the time of the payment of wages, salary, bonus or other emolument to any
39 employee whose compensation is for services performed within this state shall
40 deduct and retain from the compensation an amount PRESCRIBED BY TABLES
41 ADOPTED BY THE DEPARTMENT. ~~that is determined by the department pursuant to~~
42 ~~subsection D of this section or that is equal to a percentage, determined~~
43 ~~pursuant to subsection C of this section, of the total amount of the federal~~
44 ~~income tax deducted and withheld by an employer from the total value of such~~
45 ~~wages, bonus or other emolument of an employee under the provisions of the~~

1 ~~United States internal revenue code computed without deductions for any~~
2 ~~amount withheld.~~

3 B. An employer may voluntarily elect to not withhold tax during
4 December by notifying:

5 1. The department on a form prescribed by the department.

6 2. The employer's employees in writing in a manner prescribed by the
7 department.

8 ~~G. The percentage deducted and retained under subsection A of this~~
9 ~~section:~~

10 1. ~~Through April 30, 2009 shall be:~~

11 (a) ~~If the employee's annual compensation is less than fifteen~~
12 ~~thousand dollars, ten per cent, nineteen per cent, twenty three per cent,~~
13 ~~twenty five per cent, thirty one per cent or thirty seven per cent, at the~~
14 ~~employee's election pursuant to subsection G of this section.~~

15 (b) ~~If the employee's annual compensation is fifteen thousand dollars~~
16 ~~or more, nineteen per cent, twenty three per cent, twenty five per cent,~~
17 ~~thirty one per cent or thirty seven per cent, at the employee's election~~
18 ~~pursuant to subsection G of this section.~~

19 (c) ~~Zero per cent at the election of an employee who had no state~~
20 ~~income tax liability in the prior taxable year and expects to have no state~~
21 ~~income tax liability for the current taxable year.~~

22 2. ~~Beginning from and after April 30, 2009 through December 31, 2009,~~
23 ~~if an employee's rate of withholding under paragraph 1 of this subsection~~
24 ~~immediately before May 1, 2009 was:~~

25 (a) ~~Zero per cent at the election of an employee who had no state~~
26 ~~income tax liability in the prior taxable year and expects to have no state~~
27 ~~income tax liability for the current taxable year, the withholding tax rate~~
28 ~~shall remain zero per cent.~~

29 (b) ~~Ten per cent, the withholding tax rate shall be increased to 11.5~~
30 ~~per cent.~~

31 (c) ~~Nineteen per cent, the withholding tax rate shall be increased to~~
32 ~~21.9 per cent.~~

33 (d) ~~Twenty three per cent, the withholding tax rate shall be increased~~
34 ~~to 26.5 per cent.~~

35 (e) ~~Twenty five per cent, the withholding tax rate shall be increased~~
36 ~~to 28.8 per cent.~~

37 (f) ~~Thirty one per cent, the withholding tax rate shall be increased~~
38 ~~to 35.7 per cent.~~

39 (g) ~~Thirty seven per cent, the withholding tax rate shall be increased~~
40 ~~to 42.6 per cent.~~

41 3. ~~Beginning from and after December 31, 2009 through June 30, 2010,~~
42 ~~if an employee's rate of withholding under paragraph 2 of this subsection~~
43 ~~immediately before January 1, 2010 was:~~

44 (a) ~~Zero per cent at the election of an employee who had no state~~
45 ~~income tax liability in the prior taxable year and expects to have no state~~

1 ~~income tax liability for the current taxable year, the withholding tax rate~~
2 ~~shall remain zero per cent.~~

3 ~~(b) 11.5 per cent, the withholding tax rate shall be decreased to 10.7~~
4 ~~per cent.~~

5 ~~(c) 21.9 per cent, the withholding tax rate shall be decreased to 20.3~~
6 ~~per cent.~~

7 ~~(d) 26.5 per cent, the withholding tax rate shall be decreased to 24.5~~
8 ~~per cent.~~

9 ~~(e) 28.8 per cent, the withholding tax rate shall be decreased to 26.7~~
10 ~~per cent.~~

11 ~~(f) 35.7 per cent, the withholding tax rate shall be decreased to 33.1~~
12 ~~per cent.~~

13 ~~(g) 42.6 per cent, the withholding tax rate shall be decreased to 39.5~~
14 ~~per cent.~~

15 ~~D. Beginning from and after June 30, 2010, the amount deducted and~~
16 ~~retained under subsection A of this section shall be prescribed by tables~~
17 ~~adopted by the department. On or before March 15, 2010, the department shall~~
18 ~~submit to the joint legislative budget committee a copy of the table.~~

19 ~~E. C. If the amount collected and payable by the employer to the~~
20 ~~department in each of the preceding four calendar quarters did not exceed an~~
21 ~~average of one thousand five hundred dollars, the amount collected shall be~~
22 ~~paid to the department on or before April 30, July 31, October 31 and January~~
23 ~~31 for the preceding calendar quarter. If such amount exceeded one thousand~~
24 ~~five hundred dollars in each of the preceding four calendar quarters, the~~
25 ~~employer shall pay to the department the amount the employer deducts and~~
26 ~~retains pursuant to this section at the same time as the employer is required~~
27 ~~to make deposits of federal tax pursuant to section 6302 of the internal~~
28 ~~revenue code. On or before April 30, July 31, October 31 and January 31 each~~
29 ~~year the employer shall reconcile the amounts payable during the preceding~~
30 ~~calendar quarter in a manner prescribed by the department, except that if the~~
31 ~~full amount collected and payable is paid timely to the department under this~~
32 ~~subsection, the employer may reconcile the amounts on or before May 10,~~
33 ~~August 10, November 10 and February 10 each year. The department by rule may~~
34 ~~allow and determine which employers qualify for annual payments of~~
35 ~~withholding taxes, with an annual report by the employer pursuant to section~~
36 ~~43-412, subsection B, if the qualifying employer has established sufficient~~
37 ~~payment history to indicate that the employer is current and in good standing~~
38 ~~pursuant to standards established by rule. For any business which has not~~
39 ~~had a withholding certificate for the four preceding consecutive quarters,~~
40 ~~the quarterly average shall be computed in a manner prescribed by the~~
41 ~~department.~~

42 ~~F. D. If an employer fails to make a timely monthly payment because~~
43 ~~prior to that reporting period it reported on a quarterly basis instead of on~~
44 ~~a monthly basis, the department shall notify the employer that it is out of~~
45 ~~compliance with this section. Notwithstanding section 42-1125, the~~

department shall not assess a penalty against an employer for failing to make a timely monthly payment if the employer had filed and remitted all taxes due on a quarterly basis and brings all filings and payments into current compliance within thirty days after being notified by the department.

~~G.~~ E. Each employee shall elect the amount authorized by subsection ~~G.~~ A of this section to be withheld for application toward the employee's state income tax liability. The election provided under this subsection shall be exercised by each employee, in writing on a form prescribed by the department. The election shall be made within five days of employment. Each employer shall notify the employees of the election made available under this subsection and shall have election forms available at all times. Each form shall be completed in triplicate, with one copy each for the department, the employer and the employee. The employer shall file a copy of each completed form with the department. Any employee failing to complete an election form as prescribed shall be deemed to have elected the ~~smallest applicable~~ withholding percentage PRESCRIBED BY THE DEPARTMENT.

~~H.~~ F. Before July 1 of each year, each employer who chooses to not withhold tax pursuant to subsection B of this section shall notify each employee that:

1. State income taxes will not be withheld from compensation in December.

2. The employee may elect to change the rate of withholding tax prescribed by this section to compensate for the resulting change in annual withholdings from the employee's compensation.

~~I.~~ G. At an employee's written request, the employer may agree to reduce the amount withheld under this section by the amount of credit that the employee represents to the employer that the employee will qualify for and be entitled to under sections 43-1088, 43-1089 and 43-1089.01. The employee's request must include the name and address of the qualifying charitable organization, qualified school tuition organization or public school. Within thirty days after agreeing to the employee's request, the employer shall reduce the withholding amount by the amount of the credit, but not below zero, prorated for the number of pay periods remaining in the employee's taxable year after the employee makes the request. If an employer agrees to reduce the withholding amount pursuant to this subsection, the following apply:

1. Within fifteen days after the end of each calendar quarter, the employer must pay the entire amount of the reduction in withholding tax for that quarter to the designated charitable organization, school tuition organization or public school. These payments are considered to be on the employee's behalf, and not the employer's, for the purposes of qualifying for the income tax credits under sections 43-1088, 43-1089 and 43-1089.01.

2. The employee is responsible and accountable for the accuracy and the amount of reduction in withholding tax and the payments to the charitable organization, school tuition organization or public school.

1 3. The employer is responsible and accountable to the charitable
2 organization, school tuition organization or public school, to the employee
3 and to the department for actually making the required payments.

4 4. Within thirty days after the end of each calendar year, or within
5 fifteen days after the termination of employment, the employer must furnish
6 to each electing employee and to the department a statement of the amount
7 withheld and paid on behalf of the employee during that year.

8 Sec. 38. Section 43-403, Arizona Revised Statutes, is amended to read:
9 43-403. Employment excluded from withholding

10 A. No amount shall be deducted or retained from:

11 1. Wages or salary paid to an employee of a common carrier when such
12 employee is a nonresident of this state as defined in section 43-104 and
13 regularly performs services both within and without this state.

14 2. Wages paid for domestic service in a private home.

15 3. Wages paid for casual labor not in the course of the employer's
16 trade or business.

17 4. Wages paid to part-time or seasonal employees whose services to the
18 employer consist solely of labor in connection with the planting,
19 cultivating, harvesting or field packing of seasonal agricultural crops,
20 except such employees whose principal duties are operating any
21 mechanically-driven device in such operations.

22 5. Wages or salary paid to a nonresident of this state who is:

23 (a) An employee of an individual, fiduciary, partnership, corporation
24 or limited liability company having property, payroll and sales in this
25 state, or of a related entity having more than fifty per cent direct or
26 indirect common ownership.

27 (b) Physically present in this state for less than sixty days in a
28 calendar year for the purpose of performing a service that will benefit the
29 employer or the related entity. For purposes of determining the number of
30 days of service in this state, days spent in the following activities are not
31 included:

32 (i) In transit.

33 (ii) Engaging in personal activities.

34 (iii) Participating in training or professional development activities
35 or attending meetings that are not directly connected to the Arizona
36 operations of the employer or the related entity.

37 B. In addition to the exemptions from the withholding provisions
38 contained in subsection A of this section, because of the temporary nature of
39 such employment, no amount shall be deducted or retained from wages paid to a
40 nonresident of this state engaged in any phase of motion picture production
41 when, prior to the time of payment of such wages, an application is made by
42 the employer to the department, on forms prescribed by the department, for an
43 exemption from the withholding provisions of this section and the department
44 determines that the nonresident would be allowed a credit under section
45 43-1096 against all of the taxes upon such wages imposed by this chapter.

1 C. Subsection A, paragraph 5 of this section does not apply to a
2 nonresident employee who is in this state solely for athletic or
3 entertainment purposes.

4 D. Notwithstanding subsection A, paragraph 5 of this section:

5 1. The nonresident employee may elect to have withholding deducted in
6 the manner prescribed by section 43-401, subsection ~~G~~ E and the employer
7 shall withhold tax pursuant to that election.

8 2. The employer may elect to withhold tax from the nonresident
9 employee before the sixty day limitation has elapsed.

10 Sec. 39. Section 43-404, Arizona Revised Statutes, is amended to read:

11 43-404. Extension of withholding to military retirement
12 pensions and to other annuities; definition

13 A. For the purposes of this title, any payment of an amount as retired
14 or retainer pay for service in the military or naval forces of the United
15 States, or payments received under the United States civil service retirement
16 system from the United States government service retirement and disability
17 fund, if at the time the payment is made a request by the individual that
18 such pay be subject to withholding under this section is in effect, shall be
19 treated as if it were a payment of wages by an employer to an employee for a
20 payroll period. In addition, a payment of any other annuity to an
21 individual, if at the time the payment is made a request by the individual
22 that such annuity be subject to withholding under this section is in effect,
23 shall be treated as if it were a payment of wages by an employer to an
24 employee for a payroll period.

25 B. A request that retired or retainer pay or an annuity be subject to
26 withholding under this section shall be made by the payee in writing to the
27 person making the annuity payments and shall be accompanied by a form,
28 prescribed by the department, executed in accordance with section 43-401,
29 subsection ~~G~~ E. Such a request may be terminated by furnishing to the
30 person making the payment a written statement of termination.

31 C. For the purposes of this section, "annuity" means any amount paid
32 to an individual as a pension or annuity, but only to the extent that the
33 amount is includible in the Arizona gross income of such individual.

34 Sec. 40. Section 43-412, Arizona Revised Statutes, is amended to read:

35 43-412. Returns of withholding to be filed with department

36 A. Every employer at the time of filing a reconciliation pursuant to
37 section 43-401, subsection ~~E~~ C shall deliver to the department a return in
38 the form prescribed by the department showing the total amount of wages,
39 salaries, bonuses or other emoluments paid to employees, the amount deducted
40 pursuant to this chapter and such other information as the department may
41 require. The employer shall advise the employee of the amount of monies
42 withheld, in accordance with such rules as the department may prescribe,
43 using printed forms furnished by the department for such purposes or, when
44 requested by the employer, upon ON forms approved by the department.

B. The employer shall make an annual return for the calendar year to the department on forms provided by it summarizing the total compensation paid and the tax withheld for each employee during the calendar year and shall file such return with the department on or before February 28 of the year following the year for which the report is made. The department may extend the filing deadline on a showing of good cause by the employer. The return required by this section shall contain or be verified by a written declaration that it is made under the penalties of perjury.

Sec. 41. Section 43-419, Arizona Revised Statutes, is amended to read:

43-419. Electronic remittance and filing required by payroll service company; penalty; definitions

A. For withholding tax returns due to be filed from and after May 31, 2011, a payroll service company remitting amounts due as prescribed in section 43-401, subsection E- C on behalf of a client shall make all payments electronically. If a payroll service company remits a payment in a manner other than electronically, the payroll service company shall pay a penalty in the amount of twenty-five dollars per client, per payment, unless it is shown that the failure to pay electronically is due to reasonable cause and not due to wilful neglect.

B. For withholding tax returns due to be filed from and after May 31, 2011, a payroll service company reconciling amounts payable during the preceding quarter in accordance with section 43-401, subsection E- C on behalf of a client shall file all required quarterly returns electronically. If a payroll service company files a required quarterly return in a manner other than electronically, the payroll service company shall pay a penalty in the amount of twenty-five dollars per client, per return, unless it is shown that the failure to file electronically is due to reasonable cause and not due to wilful neglect.

C. For withholding tax returns due to be filed from and after May 31, 2011, a payroll service company filing an annual payment return as allowed by rule and in accordance with section 43-401, subsection E- C on behalf of a client shall file all required annual returns electronically. If a payroll service company files a required annual return in a manner other than electronically, the payroll service company shall pay a penalty in the amount of twenty-five dollars per client, per return, unless it is shown that the failure to file electronically is due to reasonable cause and not due to wilful neglect.

D. For the purposes of this section, "client", "payroll service company" and "person" have the same meanings prescribed in section 43-418.

Sec. 42. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1 1. A beneficiary's share of the fiduciary adjustment to the extent
2 that the amount determined by section 43-1333 increases the beneficiary's
3 Arizona gross income.

4 2. An amount equal to the "ordinary income portion" of a lump sum
5 distribution that was excluded from federal adjusted gross income pursuant to
6 section 402(d) of the internal revenue code.

7 3. The amount of interest income received on obligations of any state,
8 territory or possession of the United States, or any political subdivision
9 thereof, located outside the state of Arizona, reduced, for tax years
10 beginning from and after December 31, 1996, by the amount of any interest on
11 indebtedness and other related expenses that were incurred or continued to
12 purchase or carry those obligations and that are not otherwise deducted or
13 subtracted in arriving at Arizona gross income.

14 4. Annuity income received during the taxable year to the extent that
15 the sum of the proceeds received from such annuity in all taxable years prior
16 to and including the current taxable year exceeds the total consideration and
17 premiums paid by the taxpayer. This paragraph applies only to those
18 annuities with respect to which the first payment was received prior to
19 December 31, 1978.

20 5. The excess of a partner's share of partnership taxable income
21 required to be included under chapter 14, article 2 of this title over the
22 income required to be reported under section 702(a)(8) of the internal
23 revenue code.

24 6. The excess of a partner's share of partnership losses determined
25 pursuant to section 702(a)(8) of the internal revenue code over the losses
26 allowable under chapter 14, article 2 of this title.

27 7. The amount by which the adjusted basis of property described in
28 this paragraph and computed pursuant to the internal revenue code exceeds the
29 adjusted basis of such property computed pursuant to this title and the
30 income tax act of 1954, as amended. This paragraph shall apply to all
31 property which is held for the production of income and which is sold or
32 otherwise disposed of during the taxable year, except depreciable property
33 used in a trade or business.

34 8. The amount of depreciation or amortization of costs of any capital
35 investment that is deducted pursuant to section 167 or 179 of the internal
36 revenue code by a qualified defense contractor with respect to which an
37 election is made to amortize pursuant to section 43-1024.

38 9. The amount of gain from the sale or other disposition of a capital
39 investment which a qualified defense contractor has elected to amortize
40 pursuant to section 43-1024.

41 10. Amounts withdrawn from the Arizona state retirement system, the
42 corrections officer retirement plan, the public safety personnel retirement
43 system, the elected officials' retirement plan or a county or city retirement
44 plan by an employee upon termination of employment before retirement to the
45 extent they were deducted in arriving at Arizona taxable income in any year.

1 11. That portion of the net operating loss included in federal adjusted
2 gross income which has already been taken as a net operating loss for Arizona
3 purposes or which is separately taken as a subtraction under the special net
4 operating loss transition rule.

5 12. Any nonitemized amount deducted pursuant to section 170 of the
6 internal revenue code representing contributions to an educational
7 institution which denies admission, enrollment or board and room
8 accommodations on the basis of race, color or ethnic background except those
9 institutions primarily established for the education of American Indians.

10 13. The amount paid as taxes on property in this state with respect to
11 which a credit is claimed under section 43-1078.

12 14. Amounts withdrawn from a medical savings account by the individual
13 during the taxable year computed pursuant to section 220(f) of the internal
14 revenue code and not included in federal adjusted gross income.

15 15. Any amount of agricultural water conservation expenses that were
16 deducted pursuant to the internal revenue code for which a credit is claimed
17 under section 43-1084.

18 16. The amount by which the depreciation or amortization computed under
19 the internal revenue code with respect to property for which a credit was
20 taken under section 43-1080 exceeds the amount of depreciation or
21 amortization computed pursuant to the internal revenue code on the Arizona
22 adjusted basis of the property.

23 17. The amount by which the adjusted basis computed under the internal
24 revenue code with respect to property for which a credit was claimed under
25 section 43-1080 and which is sold or otherwise disposed of during the taxable
26 year exceeds the adjusted basis of the property computed under section
27 43-1080.

28 18. The amount by which the depreciation or amortization computed under
29 the internal revenue code with respect to property for which a credit was
30 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
31 depreciation or amortization computed pursuant to the internal revenue code
32 on the Arizona adjusted basis of the property.

33 19. The amount by which the adjusted basis computed under the internal
34 revenue code with respect to property for which a credit was claimed under
35 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
36 disposed of during the taxable year exceeds the adjusted basis of the
37 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
38 applicable.

39 20. The deduction referred to in section 1341(a)(4) of the internal
40 revenue code for restoration of a substantial amount held under a claim of
41 right.

42 21. The amount by which a net operating loss carryover or capital loss
43 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
44 code exceeds the net operating loss carryover or capital loss carryover
45 allowable pursuant to section 43-1029, subsection F.

1 22. Any amount deducted pursuant to section 170 of the internal revenue
2 code representing contributions to a school tuition organization or a public
3 school for which a credit is claimed under section 43-1089 or 43-1089.01.

4 23. Any amount deducted in computing Arizona gross income as expenses
5 for installing solar stub outs or electric vehicle recharge outlets in this
6 state with respect to which a credit is claimed pursuant to section 43-1090.

7 24. Any wage expenses deducted pursuant to the internal revenue code
8 for which a credit is claimed under section 43-1087 and representing net
9 increases in qualified employment positions for employment of temporary
10 assistance for needy families recipients.

11 25. Any amount deducted for conveying ownership or development rights
12 of property to an agricultural preservation district under section 48-5702
13 for which a credit is claimed under section 43-1081.02.

14 26. The amount of any depreciation allowance allowed pursuant to
15 section 167(a) of the internal revenue code to the extent not previously
16 added.

17 27. With respect to property for which an expense deduction was taken
18 pursuant to section 179 of the internal revenue code, the amount in excess of
19 twenty-five thousand dollars.

20 28. The amount of any deductions that are claimed in computing federal
21 adjusted gross income representing expenses for which a credit is claimed
22 under either section 43-1075 or 43-1075.01 or both.

23 29. The amount by which the depreciation or amortization computed under
24 the internal revenue code with respect to property for which a credit was
25 taken under section 43-1090.01 exceeds the amount of depreciation or
26 amortization computed pursuant to the internal revenue code on the Arizona
27 adjusted basis of the property.

28 30. The amount by which the adjusted basis computed under the internal
29 revenue code with respect to property for which a credit was claimed under
30 section 43-1090.01 and which is sold or otherwise disposed of during the
31 taxable year exceeds the adjusted basis of the property computed under
32 section 43-1090.01.

33 31. The amount of a nonqualified withdrawal, as defined in section
34 15-1871, from a college savings plan established pursuant to section 529 of
35 the internal revenue code that is made to a distributee to the extent the
36 amount is not included in computing federal adjusted gross income, except
37 that the amount added under this paragraph shall not exceed the difference
38 between the amount subtracted under section 43-1022 in prior taxable years
39 and the amount added under this section in any prior taxable years.

40 32. The amount of unemployment compensation that is excluded from
41 federal adjusted gross income pursuant to section 85(c) of the internal
42 revenue code as added by section 1007 of the American recovery and
43 reinvestment act of 2009 (P.L. 111-5).

44 33. The amount of discharge of indebtedness income that is deferred and
45 excluded from the computation of federal adjusted gross income or federal

1 taxable income in the current taxable year pursuant to section 108(i) of the
2 internal revenue code as added by section 1231 of the American recovery and
3 reinvestment act of 2009 (P.L. 111-5).

4 34. The amount of any previously deferred original issue discount that
5 was deducted in computing federal adjusted gross income or federal taxable
6 income in the current year pursuant to section 108(i) of the internal revenue
7 code as added by section 1231 of the American recovery and reinvestment act
8 of 2009 (P.L. 111-5), to the extent that the amount was previously subtracted
9 from Arizona gross income pursuant to section 43-1022, paragraph 33- 31.

10 35. For taxable years beginning from and after December 31, 2011
11 through December 31, 2014, the amount of any deduction that is claimed in
12 computing federal adjusted gross income for health insurance premiums or
13 contributions to a health savings account for which a credit is claimed under
14 section 43-1087.01.

15 Sec. 43. Section 43-1022, Arizona Revised Statutes, is amended to
16 read:

17 43-1022. Subtractions from Arizona gross income

18 In computing Arizona adjusted gross income, the following amounts shall
19 be subtracted from Arizona gross income:

20 1. The amount of exemptions allowed by section 43-1023.

21 2. Benefits, annuities and pensions in an amount totaling not more
22 than two thousand five hundred dollars received from one or more of the
23 following:

24 (a) The United States government service retirement and disability
25 fund, retired or retainer pay of the uniformed services of the United States,
26 the United States foreign service retirement and disability system and any
27 other retirement system or plan established by federal law.

28 (b) The Arizona state retirement system, the corrections officer
29 retirement plan, the public safety personnel retirement system, the elected
30 officials' retirement plan, an optional retirement program established by the
31 Arizona board of regents under section 15-1628, an optional retirement
32 program established by a community college district board under section
33 15-1451 or a retirement plan established for employees of a county, city or
34 town in this state.

35 3. A beneficiary's share of the fiduciary adjustment to the extent
36 that the amount determined by section 43-1333 decreases the beneficiary's
37 Arizona gross income.

38 4. The amount of any distributions from an individual retirement
39 account as provided for in section 408 of the internal revenue code or from a
40 qualified retirement plan of a self-employed individual as provided for in
41 section 401 of the internal revenue code to the extent that total adjustments
42 made pursuant to this paragraph in all tax years do not exceed the total of
43 all contributions made by the taxpayer to such plans prior to December 31,
44 1975, which were included in computing Arizona taxable income.

1 5. The amount of income on an installment receivable which is
2 recognized pursuant to the internal revenue code and which has already been
3 recognized on the death of the taxpayer for purposes of this title for tax
4 years ending before January 1, 1990.

5 6. Interest income received on obligations of the United States, less
6 any interest on indebtedness, or other related expenses, and deducted in
7 arriving at Arizona gross income, which were incurred or continued to
8 purchase or carry such obligations.

9 7. The amount of any income tax refunds which were received from
10 states other than Arizona and which were included as income in computing
11 federal adjusted gross income.

12 8. Annuity income included in federal adjusted gross income pursuant
13 to section 72 of the internal revenue code if the first payment with respect
14 to such annuity was received prior to December 31, 1978.

15 9. The excess of a partner's share of income required to be included
16 under section 702(a)(8) of the internal revenue code over the income required
17 to be included under chapter 14, article 2 of this title.

18 10. The excess of a partner's share of partnership losses determined
19 pursuant to chapter 14, article 2 of this title over the losses allowable
20 under section 702(a)(8) of the internal revenue code.

21 11. The amount by which the adjusted basis of property described in
22 this paragraph and computed pursuant to this title and the income tax act of
23 1954, as amended, exceeds the adjusted basis of such property computed
24 pursuant to the internal revenue code. This paragraph shall apply to all
25 property which is held for the production of income and which is sold or
26 otherwise disposed of during the taxable year other than depreciable property
27 used in a trade or business.

28 12. The amount allowed by section 43-1024 for amortization, by a
29 qualified defense contractor certified by the Arizona commerce authority
30 under section 41-1508, of a capital investment for private commercial
31 activities.

32 13. The amount of gain included in federal adjusted gross income on the
33 sale or other disposition of a capital investment that a qualified defense
34 contractor has elected to amortize pursuant to section 43-1024.

35 14. The amount allowed by section 43-1025 for contributions during the
36 taxable year of agricultural crops to charitable organizations.

37 15. The portion of any wages or salaries paid or incurred by the
38 taxpayer for the taxable year that is equal to the amount of the federal work
39 opportunity credit, the empowerment zone employment credit, the credit for
40 employer paid social security taxes on employee cash tips and the Indian
41 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
42 and 1396 of the internal revenue code.

43 16. The amount of prizes or winnings less than five thousand dollars in
44 a single taxable year from any of the state lotteries established and
45 operated pursuant to title 5, chapter 5, article 1, except that all such

winnings before March 22, 1983, including periodic distributions from such winnings made after March 22, 1983, may be subtracted.

17. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

18. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

19. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

20. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed three thousand dollars. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed three thousand dollars. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

21. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

22. With respect to a medical savings account established pursuant to section 43-1028:

(a) An eligible individual may subtract:

(i) The amount of contributions made by the individual's employer during the taxable year to the individual's medical savings account pursuant to section 43-1028 to the extent that the employer contributions are included in the individual's federal adjusted gross income.

(ii) The amount deposited by the individual in the account during the taxable year to the extent that the individual's contributions are included in the individual's federal adjusted gross income.

(b) The individual's employer may subtract the amount of contributions made by the employer to a medical savings account established on the individual's behalf to the extent that the contributions are not deductible under the internal revenue code.

23. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

1 24. Any amount of qualified educational expenses that is distributed
2 from a qualified state tuition program determined pursuant to section 529 of
3 the internal revenue code and that is included in income in computing federal
4 adjusted gross income.

5 25. Any item of income resulting from an installment sale that has been
6 properly subjected to income tax in another state in a previous taxable year
7 and that is included in Arizona gross income in the current taxable year.

8 26. The amount authorized by section 43-1030 relating to holocaust
9 survivors.

10 ~~27. The amount authorized by section 43-1031 for constructing an energy~~
11 ~~efficient residence.~~

12 ~~28.~~ 27. An amount equal to the depreciation allowable pursuant to
13 section 167(a) of the internal revenue code for the taxable year computed as
14 if the election described in section 168(k)(2)(D)(iii) of the internal
15 revenue code had been made for each applicable class of property in the year
16 the property was placed in service.

17 ~~29.~~ 28. With respect to property that is sold or otherwise disposed of
18 during the taxable year by a taxpayer that complied with section 43-1021,
19 paragraph 26 with respect to that property, the amount of depreciation that
20 has been allowed pursuant to section 167(a) of the internal revenue code to
21 the extent that the amount has not already reduced Arizona taxable income in
22 the current or prior taxable years.

23 ~~30.~~ 29. With respect to property for which an adjustment was made
24 under section 43-1021, paragraph 27, an amount equal to one-fifth of the
25 amount of the adjustment pursuant to section 43-1021, paragraph 27 in the
26 year in which the amount was adjusted under section 43-1021, paragraph 27 and
27 in each of the following four years.

28 ~~31.~~ 30. For taxable years beginning from and after December 31, 2007
29 through December 31, 2012, the amount contributed during the taxable year to
30 college savings plans established pursuant to section 529 of the internal
31 revenue code to the extent that the contributions were not deducted in
32 computing federal adjusted gross income. The amount subtracted shall not
33 exceed:

34 (a) Seven hundred fifty dollars for a single individual or a head of
35 household.

36 (b) One thousand five hundred dollars for a married couple filing a
37 joint return. In the case of a husband and wife who file separate returns,
38 the subtraction may be taken by either taxpayer or may be divided between
39 them, but the total subtractions allowed both husband and wife shall not
40 exceed one thousand five hundred dollars.

41 ~~32. To the extent not already excluded from Arizona gross income under~~
42 ~~the internal revenue code, the amount authorized by section 43-1032 for~~
43 ~~displaced pupils choice grants.~~

44 ~~33.~~ 31. The amount of any original issue discount that was deferred
45 and not allowed to be deducted in computing federal adjusted gross income or

1 federal taxable income in the current taxable year pursuant to section 108(i)
2 of the internal revenue code as added by section 1231 of the American
3 recovery and reinvestment act of 2009 (P.L. 111-5).

4 ~~34-~~ 32. The amount of previously deferred discharge of indebtedness
5 income that is included in the computation of federal adjusted gross income
6 or federal taxable income in the current taxable year pursuant to section
7 108(i) of the internal revenue code as added by section 1231 of the American
8 recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the
9 amount was previously added to Arizona gross income pursuant to section
10 43-1021, paragraph 33.

11 ~~35-~~ 33. The portion of the net operating loss carryforward that would
12 have been allowed as a deduction in the current year pursuant to section 172
13 of the internal revenue code if the election described in section
14 172(b)(1)(H) of the internal revenue code had not been made in the year of
15 the loss that exceeds the actual net operating loss carryforward that was
16 deducted in arriving at federal adjusted gross income. This subtraction only
17 applies to taxpayers who made an election under section 172(b)(1)(H) of the
18 internal revenue code as amended by section 1211 of the American recovery and
19 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the
20 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

21 ~~36-~~ 34. For taxable years beginning from and after December 31, 2013,
22 the amount of any net capital gain included in federal adjusted gross income
23 for the taxable year derived from investment in a qualified small business as
24 determined by the Arizona commerce authority pursuant to section 41-1518.

25 Sec. 44. Repeal

26 Section 43-1031, Arizona Revised Statutes, is repealed.

27 Sec. 45. Section 43-1074, Arizona Revised Statutes, is amended to
28 read:

29 43-1074. Credit for new employment

30 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER JUNE 30, 2011, a credit
31 is allowed against the taxes imposed by this title for net increases in
32 full-time employees RESIDING IN THIS STATE AND hired in qualified employment
33 positions IN THIS STATE as COMPUTED AND certified by the Arizona commerce
34 authority pursuant to section 41-1525.

35 B. Subject to subsection E of this section, the amount of the credit
36 is equal to:

37 1. Three thousand dollars for each full-time employee hired ~~for the~~
38 ~~full taxable year~~ in a qualified employment position in ~~each of the first~~
39 ~~three years~~ THE FIRST YEAR OR PARTIAL YEAR of employment, but not more than
40 four hundred employees in any taxable year. EMPLOYEES HIRED IN THE LAST
41 NINETY DAYS OF THE TAXABLE YEAR ARE EXCLUDED FOR THAT TAXABLE YEAR AND ARE
42 CONSIDERED TO BE NEW EMPLOYEES IN THE FOLLOWING TAXABLE YEAR.

43 2. THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE IN A QUALIFIED
44 EMPLOYMENT POSITION FOR THE FULL TAXABLE YEAR IN THE SECOND YEAR OF
45 CONTINUOUS EMPLOYMENT.

1 3. THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE IN A QUALIFIED
2 EMPLOYMENT POSITION FOR THE FULL TAXABLE YEAR IN THE THIRD YEAR OF CONTINUOUS
3 EMPLOYMENT.

4 C. To qualify for a credit under this section, the taxpayer and the
5 employment positions must meet the requirements prescribed by section
6 41-1525.

7 D. A credit is allowed for employment in the second and third year
8 only for qualified employment positions for which a credit was claimed and
9 allowed in the first year.

10 E. The net increase in the number of qualified employment positions is
11 the lesser of the total number of filled qualified employment positions
12 created AT THE BUSINESS LOCATION during the taxable year or the difference
13 between the average number of full-time employees IN THIS STATE in the
14 current ~~tax~~ TAXABLE year and the average number of full-time employees IN
15 THIS STATE during the immediately preceding taxable year. The net increase
16 in the number of qualified employment positions computed under this
17 subsection may not exceed EITHER four hundred qualified employment positions
18 per taxpayer each year OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF
19 FULL-TIME EMPLOYEES IN THIS STATE IN THE CURRENT TAXABLE YEAR AND THE AVERAGE
20 NUMBER OF FULL-TIME EMPLOYEES IN THIS STATE DURING THE IMMEDIATELY PRECEDING
21 TAXABLE YEAR.

22 F. A taxpayer who claims a credit under section 43-1077, 43-1079 or
23 43-1083.01 shall not claim a credit under this section with respect to the
24 same employment positions.

25 G. If the allowable tax credit exceeds the income taxes otherwise due
26 on the claimant's income, or if there are no state income taxes due on the
27 claimant's income, the amount of the claim not used as an offset against the
28 income taxes may be carried forward as a tax credit against subsequent years'
29 income tax liability for a period not exceeding five taxable years.

30 H. Co-owners of a business, including partners in a partnership and
31 shareholders of an S corporation, as defined in section 1361 of the internal
32 revenue code, may each claim only the pro rata share of the credit allowed
33 under this section based on the ownership interest. The total of the credits
34 allowed all such owners of the business may not exceed the amount that would
35 have been allowed for a sole owner of the business.

36 I. If the business is sold or changes ownership through
37 reorganization, stock purchase or merger, the new taxpayer may claim first
38 year credits only for the qualified employment positions that it created and
39 filled with an eligible employee after the purchase or reorganization was
40 complete. If a person purchases a taxpayer that had qualified for first or
41 second year credits or changes ownership through reorganization, stock
42 purchase or merger, the new taxpayer may claim the second or third year
43 credits if it meets other eligibility requirements of this section. Credits
44 for which a taxpayer qualified before the changes described in this
45 subsection are terminated and lost at the time the changes are implemented.

1 J. A failure to timely report and certify to the Arizona commerce
2 authority the information prescribed by section 41-1525, subsection D, and in
3 the manner prescribed by section 41-1525, subsection E disqualifies the
4 taxpayer from the credit under this section. The department shall require
5 written evidence of the timely report to the Arizona commerce authority.

6 K. A tax credit under this section is subject to recovery for a
7 violation described in section 41-1525, subsection G.

8 Sec. 46. Section 43-1074.01, Arizona Revised Statutes, as amended by
9 Laws 2011, second special session, chapter 1, section 96, is amended to read:

10 43-1074.01. Credit for increased research activities

11 A. A credit is allowed against the taxes imposed by this title in an
12 amount determined pursuant to section 41 of the internal revenue code, except
13 that:

14 1. The amount of the credit is based on the excess, if any, of the
15 qualified research expenses for the taxable year over the base amount as
16 defined in section 41(c) of the internal revenue code and is computed as
17 follows:

18 (a) If the excess is two million five hundred thousand dollars or
19 less, the credit is equal to twenty-four per cent of that amount.

20 (b) If the excess is over two million five hundred thousand dollars,
21 the credit is equal to six hundred thousand dollars plus fifteen per cent of
22 any amount exceeding two million five hundred thousand dollars, except that:

23 (i) For taxable years beginning from and after December 31, 2000
24 through December 31, 2001, the credit shall not exceed one million five
25 hundred thousand dollars.

26 (ii) For taxable years beginning from and after December 31, 2001
27 through December 31, 2002, the credit shall not exceed two million five
28 hundred thousand dollars.

29 (c) For taxable years beginning from and after December 31, 2011, an
30 additional credit amount is allowed if the taxpayer made basic research
31 payments during the taxable year to a university under the jurisdiction of
32 the Arizona board of regents. The additional credit amount is equal to ten
33 per cent of the EXCESS, IF ANY, OF THE basic research payments ~~that~~
34 ~~constitute excess expenses for the taxable year~~ over the QUALIFIED
35 ORGANIZATION base PERIOD amount FOR THE TAXABLE YEAR. The department shall
36 not allow credit amounts under this subdivision and section 43-1168,
37 subsection A, paragraph 1, subdivision (d) that exceed, in the aggregate, a
38 combined total of ten million dollars in any calendar year. Subject to that
39 limit, on application by the taxpayer, the department shall ~~preapprove~~
40 CERTIFY credit amounts under this subdivision and section 43-1168, subsection
41 A, paragraph 1, subdivision (d) based on priority placement established by
42 the date that the taxpayer filed the application. THE ADDITIONAL CREDIT
43 AMOUNT UNDER THIS SUBDIVISION SHALL NOT EXCEED THE AMOUNT ALLOWED BASED ON
44 ACTUAL BASIC RESEARCH PAYMENTS OR THE DEPARTMENT'S CERTIFICATION, WHICHEVER
45 IS LESS. IF AN APPLICATION, IF CERTIFIED IN FULL, WOULD EXCEED THE TEN

1 MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL CERTIFY ONLY AN AMOUNT WITHIN THAT
 2 LIMIT. AFTER THE LIMIT IS ATTAINED, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT
 3 APPLICATIONS REGARDLESS OF WHETHER OTHER CERTIFIED AMOUNTS ARE NOT ACTUALLY
 4 CLAIMED AS A CREDIT OR OTHER TAXPAYERS FAIL TO QUALIFY TO ACTUALLY CLAIM
 5 CERTIFIED AMOUNTS. Notwithstanding subsections B and C of this section, any
 6 amount of the additional credit under this subdivision that exceeds the taxes
 7 otherwise due under this title is not refundable, but may be carried forward
 8 to the next five consecutive taxable years. For the purposes of this
 9 subdivision, "basic research payments" ~~has~~ AND "QUALIFIED ORGANIZATION BASE
 10 PERIOD AMOUNT" HAVE the same meaning MEANINGS prescribed by section 41(e) of
 11 the internal revenue code without regard TO whether the taxpayer is or is not
 12 a corporation.

13 2. Qualified research includes only research conducted in this state
 14 including research conducted at a university in this state and paid for by
 15 the taxpayer.

16 3. If two or more taxpayers, including partners in a partnership and
 17 shareholders of an S corporation, as defined in section 1361 of the internal
 18 revenue code, share in the eligible expenses, each taxpayer is eligible to
 19 receive a proportionate share of the credit.

20 4. The credit under this section applies only to expenses incurred
 21 from and after December 31, 2000.

22 5. The termination provisions of section 41 of the internal revenue
 23 code do not apply.

24 B. Except as provided by subsection C of this section, if the
 25 allowable credit under this section exceeds the taxes otherwise due under
 26 this title on the claimant's income, or if there are no taxes due under this
 27 title, the amount of the credit not used to offset taxes may be carried
 28 forward to the next fifteen consecutive taxable years. The amount of credit
 29 carryforward from taxable years beginning from and after December 31, 2000
 30 through December 31, 2002 that may be used in any taxable year may not exceed
 31 the taxpayer's tax liability under this title or five hundred thousand
 32 dollars, whichever is less, minus the credit under this section for the
 33 current taxable year's qualified research expenses. The amount of credit
 34 carryforward from taxable years beginning from and after December 31, 2002
 35 that may be used in any taxable year may not exceed the taxpayer's tax
 36 liability under this title minus the credit under this section for the
 37 current taxable year's qualified research expenses. A taxpayer who carries
 38 forward any amount of credit under this subsection may not thereafter claim a
 39 refund of any amount of the credit under subsection C of this section.

40 C. For taxable years beginning from and after December 31, 2009, if a
 41 taxpayer who claims a credit under this section employs fewer than one
 42 hundred fifty persons in the taxpayer's trade or business and if the
 43 allowable credit under this section exceeds the taxes otherwise due under
 44 this title on the claimant's income, or if there are no taxes due under this
 45 title, in lieu of carrying the excess amount of credit forward to subsequent

1 taxable years under subsection B of this section, the taxpayer may elect to
2 receive a refund as follows:

3 1. The taxpayer must apply to the ~~department of commerce~~ ARIZONA
4 COMMERCE AUTHORITY for qualification for the refund pursuant to section
5 41-1507 and submit a copy of the ~~department of commerce's~~ AUTHORITY'S
6 certificate of qualification to the department of revenue with the taxpayer's
7 income tax return.

8 2. The amount of the refund is limited to seventy-five per cent of the
9 amount by which the allowable credit under this section exceeds the
10 taxpayer's tax liability under this title for the taxable year. The
11 remainder of the excess amount of the credit is waived.

12 3. The refund shall be paid in the manner prescribed by section
13 42-1118.

14 4. The refund is subject to setoff under section 42-1122.

15 5. If the department determines that a credit refunded pursuant to
16 this subsection is incorrect or invalid, the excess credit issued may be
17 treated as a tax deficiency pursuant to section 42-1108.

18 D. A taxpayer that claims a credit for increased research and
19 development activity under this section shall not claim a credit under
20 section 43-1085.01 for the same expenses.

21 Sec. 47. Section 43-1074.01, Arizona Revised Statutes, as amended by
22 Laws 2011, second special session, chapter 1, section 97, is amended to read:

23 43-1074.01. Credit for increased research activities

24 A. A credit is allowed against the taxes imposed by this title in an
25 amount determined pursuant to section 41 of the internal revenue code, except
26 that:

27 1. The amount of the credit is based on the excess, if any, of the
28 qualified research expenses for the taxable year over the base amount as
29 defined in section 41(c) of the internal revenue code and is computed as
30 follows:

31 (a) If the excess is two million five hundred thousand dollars or
32 less, the credit is equal to twenty per cent of that amount.

33 (b) If the excess is over two million five hundred thousand dollars,
34 the credit is equal to five hundred thousand dollars plus eleven per cent of
35 any amount exceeding two million five hundred thousand dollars, except that:

36 (i) For taxable years beginning from and after December 31, 2000
37 through December 31, 2001, the credit shall not exceed one million five
38 hundred thousand dollars.

39 (ii) For taxable years beginning from and after December 31, 2001
40 through December 31, 2002, the credit shall not exceed two million five
41 hundred thousand dollars.

42 (c) For taxable years beginning from and after December 31, 2011, an
43 additional credit amount is allowed if the taxpayer made basic research
44 payments during the taxable year to a university under the jurisdiction of
45 the Arizona board of regents. The additional credit amount is equal to ten

1 per cent of the EXCESS, IF ANY, OF THE basic research payments ~~that~~
2 ~~constitute excess expenses for the taxable year~~ over the QUALIFIED
3 ORGANIZATION base PERIOD amount FOR THE TAXABLE YEAR. The department shall
4 not allow credit amounts under this subdivision and section 43-1168,
5 subsection A, paragraph 1, subdivision (d) that exceed, in the aggregate, a
6 combined total of ten million dollars in any calendar year. Subject to that
7 limit, on application by the taxpayer, the department shall ~~preapprove~~
8 CERTIFY credit amounts under this subdivision and section 43-1168, subsection
9 A, paragraph 1, subdivision (d) based on priority placement established by
10 the date that the taxpayer filed the application. THE ADDITIONAL CREDIT
11 AMOUNT UNDER THIS SUBDIVISION SHALL NOT EXCEED THE AMOUNT ALLOWED BASED ON
12 ACTUAL BASIC RESEARCH PAYMENTS OR THE DEPARTMENT'S CERTIFICATION, WHICHEVER
13 IS LESS. IF AN APPLICATION, IF CERTIFIED IN FULL, WOULD EXCEED THE TEN
14 MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL CERTIFY ONLY AN AMOUNT WITHIN THAT
15 LIMIT. AFTER THE LIMIT IS ATTAINED, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT
16 APPLICATIONS REGARDLESS OF WHETHER OTHER CERTIFIED AMOUNTS ARE NOT ACTUALLY
17 CLAIMED AS A CREDIT OR OTHER TAXPAYERS FAIL TO QUALIFY TO ACTUALLY CLAIM
18 CERTIFIED AMOUNTS. Notwithstanding subsections B and C of this section, any
19 amount of the additional credit under this subdivision that exceeds the taxes
20 otherwise due under this title is not refundable, but may be carried forward
21 to the next five consecutive taxable years. For the purposes of this
22 subdivision, "basic research payments" ~~has~~ AND "QUALIFIED ORGANIZATION BASE
23 PERIOD AMOUNT" HAVE the same meaning MEANINGS prescribed by section 41(e) of
24 the internal revenue code without regard TO whether the taxpayer is or is not
25 a corporation.

26 2. Qualified research includes only research conducted in this state
27 including research conducted at a university in this state and paid for by
28 the taxpayer.

29 3. If two or more taxpayers, including partners in a partnership and
30 shareholders of an S corporation, as defined in section 1361 of the internal
31 revenue code, share in the eligible expenses, each taxpayer is eligible to
32 receive a proportionate share of the credit.

33 4. The credit under this section applies only to expenses incurred
34 from and after December 31, 2000.

35 5. The termination provisions of section 41 of the internal revenue
36 code do not apply.

37 B. Except as provided by subsection C of this section, if the
38 allowable credit under this section exceeds the taxes otherwise due under
39 this title on the claimant's income, or if there are no taxes due under this
40 title, the amount of the credit not used to offset taxes may be carried
41 forward to the next fifteen consecutive taxable years. The amount of credit
42 carryforward from taxable years beginning from and after December 31, 2000
43 through December 31, 2002 that may be used in any taxable year may not exceed
44 the taxpayer's tax liability under this title or five hundred thousand
45 dollars, whichever is less, minus the credit under this section for the

1 current taxable year's qualified research expenses. The amount of credit
2 carryforward from taxable years beginning from and after December 31, 2002
3 that may be used in any taxable year may not exceed the taxpayer's tax
4 liability under this title minus the credit under this section for the
5 current taxable year's qualified research expenses. A taxpayer who carries
6 forward any amount of credit under this subsection may not thereafter claim a
7 refund of any amount of the credit under subsection C of this section.

8 C. For taxable years beginning from and after December 31, 2009, if a
9 taxpayer who claims a credit under this section employs fewer than one
10 hundred fifty persons in the taxpayer's trade or business and if the
11 allowable credit under this section exceeds the taxes otherwise due under
12 this title on the claimant's income, or if there are no taxes due under this
13 title, in lieu of carrying the excess amount of credit forward to subsequent
14 taxable years under subsection B of this section, the taxpayer may elect to
15 receive a refund as follows:

16 1. The taxpayer must apply to the ~~department of commerce~~ ARIZONA
17 COMMERCE AUTHORITY for qualification for the refund pursuant to section
18 41-1507 and submit a copy of the ~~department of commerce's~~ AUTHORITY'S
19 certificate of qualification to the department of revenue with the taxpayer's
20 income tax return.

21 2. The amount of the refund is limited to seventy-five per cent of the
22 amount by which the allowable credit under this section exceeds the
23 taxpayer's tax liability under this title for the taxable year. The
24 remainder of the excess amount of the credit is waived.

25 3. The refund shall be paid in the manner prescribed by section
26 42-1118.

27 4. The refund is subject to setoff under section 42-1122.

28 5. If the department determines that a credit refunded pursuant to
29 this subsection is incorrect or invalid, the excess credit issued may be
30 treated as a tax deficiency pursuant to section 42-1108.

31 D. A taxpayer that claims a credit for increased research and
32 development activity under this section shall not claim a credit under
33 section 43-1085.01 for the same expenses.

34 Sec. 48. Section 43-1088, Arizona Revised Statutes, is amended to
35 read:

36 43-1088. Credit for contribution to qualifying charitable
37 organizations; definitions

38 A. A credit is allowed against the taxes imposed by this title for
39 voluntary cash contributions by the taxpayer or on the taxpayer's behalf
40 pursuant to section 43-401, subsection I- G during the taxable year to a
41 qualifying charitable organization not to exceed:

42 1. Two hundred dollars in any taxable year for a single individual or
43 a head of household.

44 2. Four hundred dollars in any taxable year for a married couple
45 filing a joint return.

1 B. A husband and wife who file separate returns for a taxable year in
2 which they could have filed a joint return may each claim only one-half of
3 the tax credit that would have been allowed for a joint return.

4 C. If the allowable tax credit exceeds the taxes otherwise due under
5 this title on the claimant's income, or if there are no taxes due under this
6 title, the taxpayer may carry forward the amount of the claim not used to
7 offset the taxes under this title for not more than five consecutive taxable
8 years' income tax liability.

9 D. The credit allowed by this section:

10 1. Is allowed only if the taxpayer itemizes deductions pursuant to
11 section 43-1042 for the taxable year.

12 2. Is in lieu of a deduction pursuant to section 170 of the internal
13 revenue code and taken for state tax purposes.

14 E. Taxpayers taking a credit authorized by this section shall provide
15 the name of the qualifying charitable organization and the amount of the
16 contribution to the department of revenue on forms provided by the
17 department.

18 F. A qualifying charitable organization shall provide the department
19 of revenue with a written certification that it meets all criteria to be
20 considered a qualifying charitable organization. The organization shall also
21 notify the department of any changes that may affect the qualifications under
22 this section.

23 G. The charitable organization's written certification must be signed
24 by an officer of the organization under penalty of perjury. The written
25 certification must include the following:

26 1. Verification of the organization's status under section 501(c)(3)
27 of the internal revenue code or verification that the organization is a
28 designated community action agency that receives community services block
29 grant program monies pursuant to 42 United States Code section 9901.

30 2. Financial data indicating the organization's budget for the
31 organization's prior operating year and the amount of that budget spent on
32 services to residents of this state who either:

33 (a) Receive temporary assistance for needy families benefits.

34 (b) Are low income residents of this state.

35 (c) Are chronically ill or physically disabled children.

36 3. A statement that the organization plans to continue spending at
37 least fifty per cent of its budget on services to residents of this state who
38 receive temporary assistance for needy families benefits, who are low income
39 residents of this state or who are chronically ill or physically disabled
40 children.

41 4. A statement that the organization does not provide, pay for,
42 promote, provide coverage of or provide referrals for abortions and does not
43 financially support any other entity that provides, pays for, promotes,
44 provides coverage of or provides referrals for abortions.

1 H. The department shall review each written certification and
2 determine whether the organization meets all the criteria to be considered a
3 qualifying charitable organization and notify the organization of its
4 determination. The department may also periodically request recertification
5 from the organization. The department shall compile and make available to
6 the public a list of the qualifying charitable organizations.

7 I. For the purposes of this section:

8 1. "Chronically ill or physically disabled children" has the same
9 meaning prescribed in section 36-260.

10 2. "Low income residents" means persons whose household income is less
11 than one hundred fifty per cent of the federal poverty level.

12 3. "Qualifying charitable organization" means a charitable
13 organization that is exempt from federal income taxation under section
14 501(c)(3) of the internal revenue code or is a designated community action
15 agency that receives community services block grant program monies pursuant
16 to 42 United States Code section 9901. The organization must spend at least
17 fifty per cent of its budget on services to residents of this state who
18 receive temporary assistance for needy families benefits or low income
19 residents of this state and their households or to chronically ill or
20 physically disabled children who are residents of this state. Taxpayers
21 choosing to make donations through an umbrella charitable organization that
22 collects donations on behalf of member charities shall designate that the
23 donation be directed to a member charitable organization that would qualify
24 under this section on a stand-alone basis. Qualifying charitable
25 organization does not include any entity that provides, pays for, promotes,
26 provides coverage of or provides referrals for abortions or that financially
27 supports any other entity that provides, pays for, promotes, provides
28 coverage of or provides referrals for abortions.

29 4. "Services" means cash assistance, medical care, child care, food,
30 clothing, shelter, job placement and job training services or any other
31 assistance that is reasonably necessary to meet immediate basic needs and
32 that is provided and used in this state.

33 Sec. 49. Section 43-1089, Arizona Revised Statutes, is amended to
34 read:

35 43-1089. Credit for contributions to school tuition
36 organization; definitions

37 A. A credit is allowed against the taxes imposed by this title for the
38 amount of voluntary cash contributions by the taxpayer or on the taxpayer's
39 behalf pursuant to section 43-401, subsection I- G during the taxable year to
40 a school tuition organization that is certified pursuant to chapter 16 of
41 this title at the time of donation. Except as provided by subsection C of
42 this section, the amount of the credit shall not exceed:

43 1. Five hundred dollars in any taxable year for a single individual or
44 a head of household.

1 2. One thousand dollars in any taxable year for a married couple
2 filing a joint return.

3 B. A husband and wife who file separate returns for a taxable year in
4 which they could have filed a joint return may each claim only one-half of
5 the tax credit that would have been allowed for a joint return.

6 C. For each taxable year beginning on or after January 1, the
7 department shall adjust the dollar amounts prescribed by subsection A,
8 paragraphs 1 and 2 of this section according to the average annual change in
9 the metropolitan Phoenix consumer price index published by the United States
10 bureau of labor statistics, except that the dollar amounts shall not be
11 revised downward below the amounts allowed in the prior taxable year. The
12 revised dollar amounts shall be raised to the nearest whole dollar.

13 D. If the allowable tax credit exceeds the taxes otherwise due under
14 this title on the claimant's income, or if there are no taxes due under this
15 title, the taxpayer may carry the amount of the claim not used to offset the
16 taxes under this title forward for not more than five consecutive taxable
17 years' income tax liability.

18 E. The credit allowed by this section is in lieu of any deduction
19 pursuant to section 170 of the internal revenue code and taken for state tax
20 purposes.

21 F. The tax credit is not allowed if the taxpayer designates the
22 taxpayer's contribution to the school tuition organization for the direct
23 benefit of any dependent of the taxpayer or if the taxpayer designates a
24 student beneficiary as a condition of the taxpayer's contribution to the
25 school tuition organization. The tax credit is not allowed if the taxpayer,
26 with the intent to benefit the taxpayer's dependent, agrees with one or more
27 other taxpayers to designate each taxpayer's contribution to the school
28 tuition organization for the direct benefit of the other taxpayer's
29 dependent.

30 G. For the purposes of this section, a contribution, for which a
31 credit is claimed, that is made on or before the fifteenth day of the fourth
32 month following the close of the taxable year may be applied to either the
33 current or preceding taxable year and is considered to have been made on the
34 last day of that taxable year.

35 H. For the purposes of this section:

36 1. "Handicapped student" means a student who has any of the following
37 conditions:

- 38 (a) Hearing impairment.
- 39 (b) Visual impairment.
- 40 (c) Developmental delay.
- 41 (d) Preschool severe delay.
- 42 (e) Speech/language impairment.

43 2. "Qualified school":

44 (a) Means a nongovernmental primary school or secondary school or a
45 preschool for handicapped students that is located in this state, that does

1 not discriminate on the basis of race, color, handicap, familial status or
2 national origin and that satisfies the requirements prescribed by law for
3 private schools in this state on January 1, 1997.

4 (b) Does not include a charter school or programs operated by charter
5 schools.

6 Sec. 50. Section 43-1089.01, Arizona Revised Statutes, is amended to
7 read:

8 43-1089.01. Tax credit; public school fees and contributions;
9 definitions

10 A. A credit is allowed against the taxes imposed by this title for the
11 amount of any fees or cash contributions by a taxpayer or on the taxpayer's
12 behalf pursuant to section 43-401, subsection I- G during the taxable year to
13 a public school located in this state for the support of extracurricular
14 activities or character education programs of the public school, but not
15 exceeding:

16 1. Two hundred dollars for a single individual or a head of household.

17 2. Three hundred dollars in taxable year 2005 for a married couple
18 filing a joint return.

19 3. Four hundred dollars in taxable year 2006 and any subsequent
20 taxable year for a married couple filing a joint return.

21 B. A husband and wife who file separate returns for a taxable year in
22 which they could have filed a joint return may each claim only one-half of
23 the tax credit that would have been allowed for a joint return.

24 C. The credit allowed by this section is in lieu of any deduction
25 pursuant to section 170 of the internal revenue code and taken for state tax
26 purposes.

27 D. If the allowable tax credit exceeds the taxes otherwise due under
28 this title on the claimant's income, or if there are no taxes due under this
29 title, the taxpayer may carry the amount of the claim not used to offset the
30 taxes under this title forward for not more than five consecutive taxable
31 years' income tax liability.

32 E. The site council of the public school that receives contributions
33 that are not designated for a specific purpose shall determine how the
34 contributions are used at the school site. If a charter school does not have
35 a site council, the principal, director or chief administrator of the charter
36 school shall determine how the contributions that are not designated for a
37 specific purpose are used at the school site. If at the end of a fiscal year
38 a public school has unspent contributions that were previously designated for
39 a specific purpose or program and that purpose or program has been
40 discontinued or has not been used for two consecutive fiscal years, these
41 contributions shall be considered undesignated in the following fiscal year
42 for the purposes of this subsection.

43 F. A public school that receives fees or a cash contribution pursuant
44 to subsection A of this section shall report to the department, in a form

1 prescribed by the department, by February 28 of each year the following
2 information:

3 1. The total number of fee and cash contribution payments received
4 during the previous calendar year.

5 2. The total dollar amount of fees and contributions received during
6 the previous calendar year.

7 3. The total dollar amount of fees and contributions spent by the
8 school during the previous calendar year, categorized by specific
9 extracurricular activity or character education program.

10 G. For the purposes of this section:

11 1. "Character education programs" means a program described in section
12 15-719.

13 2. "Extracurricular activities" means school sponsored activities that
14 require enrolled students to pay a fee in order to participate, including
15 fees for:

16 (a) Band uniforms.

17 (b) Equipment or uniforms for varsity athletic activities.

18 (c) Scientific laboratory materials.

19 (d) In-state or out-of-state trips that are solely for competitive
20 events. Extracurricular activities do not include any senior trips or events
21 that are recreational, amusement or tourist activities.

22 3. "Public school" means a school that is part of a school district, a
23 joint technical education district or a charter school.

24 Sec. 51. Section 43-1122, Arizona Revised Statutes, is amended to
25 read:

26 43-1122. Subtractions from Arizona gross income; corporations

27 In computing Arizona taxable income for a corporation, the following
28 amounts shall be subtracted from Arizona gross income:

29 1. The amounts computed pursuant to section 43-1022, paragraphs 8
30 through 15, ~~28, 29, 30, 33 and 34~~ 27, 28, 29, 31 AND 32. For the purposes of
31 this paragraph, "federal adjusted gross income" as used in section 43-1022
32 means "federal taxable income".

33 2. The amount of Arizona capital loss carryover as defined in section
34 43-1124 in an amount not to exceed one thousand dollars.

35 3. With respect to a financial institution as defined in section
36 6-101, expenses and interest relating to tax-exempt income disallowed
37 pursuant to section 265 of the internal revenue code.

38 4. Dividends received from another corporation owned or controlled
39 directly or indirectly by a recipient corporation. For the purposes of this
40 paragraph, "control" means direct or indirect ownership or control of fifty
41 per cent or more of the voting stock of the payor corporation by the
42 recipient corporation. Dividends shall have the meaning provided in section
43 316 of the internal revenue code. This subtraction shall apply without
44 regard to the provisions of section 43-961, paragraph 2 and article 4 of this
45 chapter. A corporation that has its commercial domicile, as defined in

1 section 43-1131, in this state may subtract the full amount of the
2 dividends. A corporation that does not have its commercial domicile in this
3 state may subtract:

4 (a) For its taxable year beginning in 1990, an amount equal to
5 one-half of the dividends.

6 (b) For taxable years beginning in 1991 and thereafter, the full
7 amount of the dividends.

8 5. Interest income received on obligations of the United States.

9 6. The amount of dividend income from foreign corporations.

10 7. The amount of net operating loss allowed by section 43-1123.

11 8. The amount of any state income tax refunds received which were
12 included as income in computing federal taxable income.

13 9. The amount of expense recapture included in income pursuant to
14 section 617 of the internal revenue code for mine exploration expenses.

15 10. The amount of deferred exploration expenses allowed by section
16 43-1127.

17 11. The amount of exploration expenses related to the exploration of
18 oil, gas or geothermal resources, computed in the same manner and on the same
19 basis as a deduction for mine exploration pursuant to section 617 of the
20 internal revenue code. This computation is subject to the adjustments
21 contained in section 43-1121, paragraph 8 and paragraphs 9 and 10 of this
22 section relating to exploration expenses.

23 12. The amortization of pollution control devices allowed by section
24 43-1129.

25 13. The amount of amortization of the cost of child care facilities
26 pursuant to section 43-1130.

27 14. The amount of income from a domestic international sales
28 corporation required to be included in the income of its shareholders
29 pursuant to section 995 of the internal revenue code.

30 15. The income of an insurance company that is exempt under section
31 43-1201 to the extent that it is included in computing Arizona gross income
32 on a consolidated return pursuant to section 43-947.

33 16. The amount of contributions by the taxpayer during the taxable year
34 to medical savings accounts established on behalf of the taxpayer's employees
35 as provided by section 43-1028, to the extent that the contributions are not
36 deductible under the internal revenue code.

37 17. The amount by which a capital loss carryover allowable pursuant to
38 section 43-1130.01, subsection F exceeds the capital loss carryover allowable
39 pursuant to section 1341(b)(5) of the internal revenue code.

40 Sec. 52. Section 43-1161, Arizona Revised Statutes, is amended to
41 read:

42 43-1161. Credit for new employment

43 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER JUNE 30, 2011, a credit
44 is allowed against the taxes imposed by this title for net increases in
45 full-time employees RESIDING IN THIS STATE AND hired in qualified employment

1 positions IN THIS STATE as COMPUTED AND certified by the Arizona commerce
2 authority pursuant to section 41-1525.

3 B. Subject to subsection E of this section, the amount of the credit
4 is equal to:

5 1. Three thousand dollars for each full-time employee hired ~~for the~~
6 ~~full taxable year~~ in a qualified employment position in ~~each of the first~~
7 ~~three years~~ THE FIRST YEAR OR PARTIAL YEAR of employment, but not more than
8 four hundred employees in any taxable year. EMPLOYEES HIRED IN THE LAST
9 NINETY DAYS OF THE TAXABLE YEAR ARE EXCLUDED FOR THAT TAXABLE YEAR AND ARE
10 CONSIDERED TO BE NEW EMPLOYEES IN THE FOLLOWING TAXABLE YEAR.

11 2. THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE IN A QUALIFIED
12 EMPLOYMENT POSITION FOR THE FULL TAXABLE YEAR IN THE SECOND YEAR OF
13 CONTINUOUS EMPLOYMENT.

14 3. THREE THOUSAND DOLLARS FOR EACH FULL-TIME EMPLOYEE IN A QUALIFIED
15 EMPLOYMENT POSITION FOR THE FULL TAXABLE YEAR IN THE THIRD YEAR OF CONTINUOUS
16 EMPLOYMENT.

17 C. To qualify for a credit under this section, the taxpayer and the
18 employment positions must meet the requirements prescribed by section
19 41-1525.

20 D. A credit is allowed for employment in the second and third year
21 only for qualified employment positions for which a credit was claimed and
22 allowed in the first year.

23 E. The net increase in the number of qualified employment positions is
24 the lesser of the total number of filled qualified employment positions
25 created AT THE BUSINESS LOCATION during the taxable year or the difference
26 between the average number of full-time employees IN THIS STATE in the
27 current ~~tax~~ TAXABLE year and the average number of full-time employees IN
28 THIS STATE during the immediately preceding taxable year. The net increase
29 in the number of qualified employment positions computed under this
30 subsection may not exceed EITHER four hundred qualified employment positions
31 per taxpayer each year OR THE DIFFERENCE BETWEEN THE AVERAGE NUMBER OF
32 FULL-TIME EMPLOYEES IN THIS STATE IN THE CURRENT TAXABLE YEAR AND THE AVERAGE
33 NUMBER OF FULL-TIME EMPLOYEES IN THIS STATE DURING THE IMMEDIATELY PRECEDING
34 TAXABLE YEAR.

35 F. A taxpayer who claims a credit under section 43-1164.01, 43-1165 or
36 43-1167 shall not claim a credit under this section with respect to the same
37 employment positions.

38 G. If the allowable tax credit exceeds the income taxes otherwise due
39 on the claimant's income, or if there are no state income taxes due on the
40 claimant's income, the amount of the claim not used as an offset against the
41 income taxes may be carried forward as a tax credit against subsequent years'
42 income tax liability for a period not exceeding five taxable years.

43 H. Co-owners of a business, including corporate partners in a
44 partnership, may each claim only the pro rata share of the credit allowed
45 under this section based on the ownership interest. The total of the credits

1 allowed all such owners of the business may not exceed the amount that would
2 have been allowed for a sole owner of the business.

3 I. If the business is sold or changes ownership through
4 reorganization, stock purchase or merger, the new taxpayer may claim first
5 year credits only for the qualified employment positions that it created and
6 filled with an eligible employee after the purchase or reorganization was
7 complete. If a person purchases a taxpayer that had qualified for first or
8 second year credits or changes ownership through reorganization, stock
9 purchase or merger, the new taxpayer may claim the second or third year
10 credits if it meets other eligibility requirements of this section. Credits
11 for which a taxpayer qualified before the changes described in this
12 subsection are terminated and lost at the time the changes are implemented.

13 J. A failure to timely report and certify to the Arizona commerce
14 authority the information prescribed by section 41-1525, subsection D, and in
15 the manner prescribed by section 41-1525, subsection E disqualifies the
16 taxpayer from the credit under this section. The department shall require
17 written evidence of the timely report to the Arizona commerce authority.

18 K. A tax credit under this section is subject to recovery for a
19 violation described in section 41-1525, subsection G.

20 Sec. 53. Section 43-1168, Arizona Revised Statutes, as amended by Laws
21 2011, second special session, chapter 1, section 113, is amended to read:

22 43-1168. Credit for increased research activities

23 A. A credit is allowed against the taxes imposed by this title in an
24 amount determined pursuant to section 41 of the internal revenue code, except
25 that:

26 1. The amount of the credit is computed as follows:

27 (a) Add:

28 (i) The excess, if any, of the qualified research expenses for the
29 taxable year over the base amount as defined in section 41(c) of the internal
30 revenue code.

31 (ii) The basic research payments determined under section 41(e)(1)(A)
32 of the internal revenue code.

33 (b) If the sum computed under subdivision (a) is two million five
34 hundred thousand dollars or less, the credit is equal to twenty-four per cent
35 of that amount.

36 (c) If the sum computed under subdivision (a) is over two million five
37 hundred thousand dollars, the credit is equal to six hundred thousand dollars
38 plus fifteen per cent of any amount exceeding two million five hundred
39 thousand dollars, except that:

40 (i) For taxable years beginning from and after December 31, 2000
41 through December 31, 2001, the credit shall not exceed one million five
42 hundred thousand dollars.

43 (ii) For taxable years beginning from and after December 31, 2001
44 through December 31, 2002, the credit shall not exceed two million five
45 hundred thousand dollars.

(d) For taxable years beginning from and after December 31, 2011, an additional credit amount is allowed if the taxpayer made basic research payments during the taxable year to a university under the jurisdiction of the Arizona board of regents. The additional credit amount is equal to ten per cent of the EXCESS, IF ANY, OF THE basic research payments ~~that constitute excess expenses for the taxable year~~ over the QUALIFIED ORGANIZATION base PERIOD amount FOR THE TAXABLE YEAR. The department shall not allow credit amounts under this subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision (c) that exceed, in the aggregate, a combined total of ten million dollars in any calendar year. Subject to that limit, on application by the taxpayer, the department shall ~~preapprove~~ CERTIFY credit amounts under this subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision (c) based on priority placement established by the date that the taxpayer filed the application. THE ADDITIONAL CREDIT AMOUNT UNDER THIS SUBDIVISION SHALL NOT EXCEED THE AMOUNT ALLOWED BASED ON ACTUAL BASIC RESEARCH PAYMENTS OR THE DEPARTMENT'S CERTIFICATION, WHICHEVER IS LESS. IF AN APPLICATION, IF CERTIFIED IN FULL, WOULD EXCEED THE TEN MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL CERTIFY ONLY AN AMOUNT WITHIN THAT LIMIT. AFTER THE LIMIT IS ATTAINED, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS REGARDLESS OF WHETHER OTHER CERTIFIED AMOUNTS ARE NOT ACTUALLY CLAIMED AS A CREDIT OR OTHER TAXPAYERS FAIL TO QUALIFY TO ACTUALLY CLAIM CERTIFIED AMOUNTS. Notwithstanding subsections B and D of this section, any amount of the additional credit under this subdivision that exceeds the taxes otherwise due under this title is not refundable, but may be carried forward to the next five consecutive taxable years. FOR THE PURPOSES OF THIS SUBDIVISION, "BASIC RESEARCH PAYMENTS" AND "QUALIFIED ORGANIZATION BASE PERIOD AMOUNT" HAVE THE SAME MEANINGS PRESCRIBED BY SECTION 41(e) OF THE INTERNAL REVENUE CODE.

2. Qualified research includes only research conducted in this state including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including corporate partners in a partnership, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 1993.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection D of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used under this subsection in any

1 taxable year may not exceed the taxpayer's tax liability under this title or
2 five hundred thousand dollars, whichever is less, minus the credit under this
3 section for the current taxable year's qualified research expenses. The
4 amount of credit carryforward from taxable years beginning from and after
5 December 31, 2002 that may be used under this subsection in any taxable year
6 may not exceed the taxpayer's tax liability under this title minus the credit
7 under this section for the current taxable year's qualified research
8 expenses. A taxpayer that carries forward any amount of credit under this
9 subsection may not thereafter claim a refund of any amount of the credit
10 under subsection D of this section.

11 C. If a taxpayer has qualified research expenses that are carried
12 forward from taxable years beginning before January 1, 2001, the amount of
13 the expenses carried forward shall be converted to a credit carryforward by
14 multiplying the amount of the qualified expenses carried forward by twenty
15 per cent. A credit carryforward determined under this subsection may be
16 carried forward to not more than fifteen years from the year in which the
17 expenses were incurred. The amount of credit carryforward from taxable years
18 beginning before January 1, 2001 that may be used under this subsection in
19 any taxable year may not exceed the taxpayer's tax liability under this title
20 or five hundred thousand dollars, whichever is less, minus the credit under
21 this section for the current taxable year's qualified research expenses. The
22 total amount of credit carryforward from taxable years beginning before
23 January 1, 2003 that may be used in any taxable year under subsection B and
24 this subsection may not exceed the taxpayer's tax liability under this title
25 or five hundred thousand dollars, whichever is less, minus the credit under
26 this section for the current taxable year's qualified research expenses.

27 D. For taxable years beginning from and after December 31, 2009, if a
28 taxpayer who claims a credit under this section employs fewer than one
29 hundred fifty persons in the taxpayer's trade or business and if the
30 allowable credit under this section exceeds the taxes otherwise due under
31 this title on the claimant's income, or if there are no taxes due under this
32 title, in lieu of carrying the excess amount of credit forward to subsequent
33 taxable years under subsection B of this section, the taxpayer may elect to
34 receive a refund as follows:

35 1. The taxpayer must apply to the ~~department of commerce~~ ARIZONA
36 COMMERCE AUTHORITY for qualification for the refund pursuant to section
37 41-1507 and submit a copy of the ~~department of commerce's~~ AUTHORITY'S
38 certificate of qualification to the department of revenue with the taxpayer's
39 income tax return.

40 2. The amount of the refund is limited to seventy-five per cent of the
41 amount by which the allowable credit under this section exceeds the
42 taxpayer's tax liability under this title for the taxable year. The
43 remainder of the excess amount of the credit is waived.

44 3. The refund shall be paid in the manner prescribed by section
45 42-1118.

1 4. The refund is subject to setoff under section 42-1122.

2 5. If the department determines that a credit refunded pursuant to
3 this subsection is incorrect or invalid, the excess credit issued may be
4 treated as a tax deficiency pursuant to section 42-1108.

5 E. A taxpayer that claims a credit for increased research and
6 development activity under this section shall not claim a credit under
7 section 43-1164.02 for the same expenses.

8 Sec. 54. Section 43-1168, Arizona Revised Statutes, as amended by Laws
9 2011, second special session, chapter 1, section 114, is amended to read:

10 43-1168. Credit for increased research activity

11 A. A credit is allowed against the taxes imposed by this title in an
12 amount determined pursuant to section 41 of the internal revenue code, except
13 that:

14 1. The amount of the credit is computed as follows:

15 (a) Add:

16 (i) The excess, if any, of the qualified research expenses for the
17 taxable year over the base amount as defined in section 41(c) of the internal
18 revenue code.

19 (ii) The basic research payments determined under section 41(e)(1)(A)
20 of the internal revenue code.

21 (b) If the sum computed under subdivision (a) is two million five
22 hundred thousand dollars or less, the credit is equal to twenty per cent of
23 that amount.

24 (c) If the sum computed under subdivision (a) is over two million five
25 hundred thousand dollars, the credit is equal to five hundred thousand
26 dollars plus eleven per cent of any amount exceeding two million five hundred
27 thousand dollars, except that:

28 (i) For taxable years beginning from and after December 31, 2000
29 through December 31, 2001, the credit shall not exceed one million five
30 hundred thousand dollars.

31 (ii) For taxable years beginning from and after December 31, 2001
32 through December 31, 2002, the credit shall not exceed two million five
33 hundred thousand dollars.

34 (d) For taxable years beginning from and after December 31, 2011, an
35 additional credit amount is allowed if the taxpayer made basic research
36 payments during the taxable year to a university under the jurisdiction of
37 the Arizona board of regents. The additional credit amount is equal to ten
38 per cent of the EXCESS, IF ANY, OF THE basic research payments ~~that~~
39 ~~constitute excess expenses for the taxable year~~ over the QUALIFIED
40 ORGANIZATION base PERIOD amount FOR THE TAXABLE YEAR. The department shall
41 not allow credit amounts under this subdivision and section 43-1074.01,
42 subsection A, paragraph 1, subdivision (c) that exceed, in the aggregate, a
43 combined total of ten million dollars in any calendar year. Subject to that
44 limit, on application by the taxpayer, the department shall preapprove
45 CERTIFY credit amounts under this subdivision and section 43-1074.01,

subsection A, paragraph 1, subdivision (c) based on priority placement established by the date that the taxpayer filed the application. THE ADDITIONAL CREDIT AMOUNT UNDER THIS SUBDIVISION SHALL NOT EXCEED THE AMOUNT ALLOWED BASED ON ACTUAL BASIC RESEARCH PAYMENTS OR THE DEPARTMENT'S CERTIFICATION, WHICHEVER IS LESS. IF AN APPLICATION, IF CERTIFIED IN FULL, WOULD EXCEED THE TEN MILLION DOLLAR LIMIT, THE DEPARTMENT SHALL CERTIFY ONLY AN AMOUNT WITHIN THAT LIMIT. AFTER THE LIMIT IS ATTAINED, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS REGARDLESS OF WHETHER OTHER CERTIFIED AMOUNTS ARE NOT ACTUALLY CLAIMED AS A CREDIT OR OTHER TAXPAYERS FAIL TO QUALIFY TO ACTUALLY CLAIM CERTIFIED AMOUNTS. Notwithstanding subsections B and D of this section, any amount of the additional credit under this subdivision that exceeds the taxes otherwise due under this title is not refundable, but may be carried forward to the next five consecutive taxable years. FOR THE PURPOSES OF THIS SUBDIVISION, "BASIC RESEARCH PAYMENTS" AND "QUALIFIED ORGANIZATION BASE PERIOD AMOUNT" HAVE THE SAME MEANINGS PRESCRIBED BY SECTION 41(e) OF THE INTERNAL REVENUE CODE.

2. Qualified research includes only research conducted in this state including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including corporate partners in a partnership, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 1993.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection D of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses. A taxpayer that carries forward any amount of credit under this subsection may not thereafter claim a refund of any amount of the credit under subsection D of this section.

1 C. If a taxpayer has qualified research expenses that are carried
2 forward from taxable years beginning before January 1, 2001, the amount of
3 the expenses carried forward shall be converted to a credit carryforward by
4 multiplying the amount of the qualified expenses carried forward by twenty
5 per cent. A credit carryforward determined under this subsection may be
6 carried forward to not more than fifteen years from the year in which the
7 expenses were incurred. The amount of credit carryforward from taxable years
8 beginning before January 1, 2001 that may be used under this subsection in
9 any taxable year may not exceed the taxpayer's tax liability under this title
10 or five hundred thousand dollars, whichever is less, minus the credit under
11 this section for the current taxable year's qualified research expenses. The
12 total amount of credit carryforward from taxable years beginning before
13 January 1, 2003 that may be used in any taxable year under subsection B and
14 this subsection may not exceed the taxpayer's tax liability under this title
15 or five hundred thousand dollars, whichever is less, minus the credit under
16 this section for the current taxable year's qualified research expenses.

17 D. For taxable years beginning from and after December 31, 2009, if a
18 taxpayer who claims a credit under this section employs fewer than one
19 hundred fifty persons in the taxpayer's trade or business and if the
20 allowable credit under this section exceeds the taxes otherwise due under
21 this title on the claimant's income, or if there are no taxes due under this
22 title, in lieu of carrying the excess amount of credit forward to subsequent
23 taxable years under subsection B of this section, the taxpayer may elect to
24 receive a refund as follows:

25 1. The taxpayer must apply to the ~~department of commerce~~ ARIZONA
26 COMMERCE AUTHORITY for qualification for the refund pursuant to section
27 41-1507 and submit a copy of the ~~department of commerce's~~ AUTHORITY'S
28 certificate of qualification to the department of revenue with the taxpayer's
29 income tax return.

30 2. The amount of the refund is limited to seventy-five per cent of the
31 amount by which the allowable credit under this section exceeds the
32 taxpayer's tax liability under this title for the taxable year. The
33 remainder of the excess amount of the credit is waived.

34 3. The refund shall be paid in the manner prescribed by section
35 42-1118.

36 4. The refund is subject to setoff under section 42-1122.

37 5. If the department determines that a credit refunded pursuant to
38 this subsection is incorrect or invalid, the excess credit issued may be
39 treated as a tax deficiency pursuant to section 42-1108.

40 E. A taxpayer that claims a credit for increased research and
41 development activity under this section shall not claim a credit under
42 section 43-1164.02 for the same expenses.

1 Sec. 55. Section 43-1505, Arizona Revised Statutes, is amended to
2 read:

3 43-1505. Special provisions; corporate donations for displaced
4 students and students with disabilities; definition

5 A. A school tuition organization that receives contributions for the
6 purposes of section ~~28-224.07~~ 20-224.07 or 43-1184 must use at least ninety
7 per cent of those contributions to provide educational scholarships or
8 tuition grants to qualified students who either:

9 1. Received a grant or scholarship under title 15, chapter 8, article
10 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
11 year.

12 2. Attended a governmental primary or secondary school as a full-time
13 student as defined in section 15-901 for at least the first one hundred days
14 of the prior fiscal year and transferred from a governmental primary or
15 secondary school to a qualified school.

16 3. Qualified for an educational scholarship or tuition grant under
17 paragraph 1 or 2 OF THIS SUBSECTION if the qualified student continues to
18 attend a qualified school in a subsequent year.

19 B. The amount of an educational scholarship or a tuition grant that is
20 issued by a school tuition organization under this section shall not exceed
21 the cost of tuition for the student to attend the qualified school or ninety
22 per cent of the amount of state aid that otherwise would be computed for the
23 student as provided in title 15, chapter 9, article 5, whichever is less. On
24 request from a school tuition organization, the department of education shall
25 provide to the school tuition organization in a timely manner the amount
26 computed for the student under this subsection that represents the ninety per
27 cent limitation prescribed in this subsection.

28 C. A school tuition organization shall require that student
29 beneficiaries use the educational scholarships or tuition grants on a
30 full-time basis. If a child leaves the school before completing an entire
31 school year, the school shall refund a prorated amount of the educational
32 scholarship or tuition grant to the school tuition organization that issued
33 the scholarship or grant. The school tuition organization shall allocate any
34 refunds it receives under this subsection for educational scholarships or
35 tuition grants in the following year.

36 D. Qualified students who receive an educational scholarship or
37 tuition grant under this section shall be allowed to attend any qualified
38 school of their custodians' choice.

39 E. For the purposes of this section, "qualified student" means a
40 student who has been either:

41 1. Placed in foster care pursuant to title 8, chapter 5 at any time
42 before the student graduates from high school or obtains a general
43 equivalency diploma.

44 2. Identified as having a disability under section 504 of the
45 rehabilitation act (29 United States Code section 794) or identified by a

1 school district as a child with a disability as defined in section 15-761 or
2 a child with a disability who is eligible to receive services from a school
3 district under section 15-763.

4 Sec. 56. Section 43-1507, Arizona Revised Statutes, is amended to
5 read:

6 43-1507. Audits and financial reviews

7 A. On or before September 30 of each year, each school tuition
8 organization that received one million dollars or more in total donations in
9 the previous fiscal year shall provide for a financial audit of the
10 organization. The audit must be conducted in accordance with generally
11 accepted auditing standards and must evaluate the organization's compliance
12 with the fiscal requirements of this article. The audit must be conducted by
13 an independent certified public accountant licensed in this state. The
14 certified public accountant and the firm the certified public accountant is
15 affiliated with shall be independent with respect to the organization, its
16 officers and directors, services performed and all other independent
17 relationships prescribed by generally accepted ~~accounting~~ AUDITING standards.

18 B. On or before September 30 of each year, each school tuition
19 organization that received less than one million dollars in total donations
20 in the previous fiscal year shall provide for a financial review of the
21 organization. The review must be conducted in accordance with standards for
22 accounting and review services and must evaluate the organization's
23 compliance with the fiscal requirements of this article. The review must be
24 conducted by an independent certified public accountant licensed in this
25 state. The certified public accountant and the firm the certified public
26 accountant is affiliated with shall be independent with respect to the
27 organization, its officers and directors, services performed and all other
28 independent relationships prescribed by generally accepted ~~accounting~~
29 AUDITING standards.

30 C. Within five days after receiving the audit or financial review, the
31 school tuition organization shall file a signed copy of the audit or
32 financial review with the department.

33 D. The school tuition organization shall pay the fees and costs of the
34 certified public accountant under this section from the organization's
35 operating monies. The fees and costs shall be excluded from the calculation
36 of total revenues spent on scholarships and tuition grants.

37 Sec. 57. Section 48-5102, Arizona Revised Statutes, is amended to
38 read:

39 48-5102. Regional public transportation authority in counties
40 with population of one million two hundred thousand
41 or more persons; establishment

42 A. Beginning January 1, 1986, a regional public transportation
43 authority is established in a county that has a population of one million two
44 hundred thousand or more persons and that approves a transportation excise
45 tax ~~under section 42-6104.~~

1 B. An authority is a tax levying public improvement district for all
2 purposes of article XIII, section 7, Constitution of Arizona, and has the
3 powers, privileges and immunities specifically granted by law. The
4 authority's property, bonds, debts and other obligations and interest on and
5 transfer of its bonds and obligations are free from taxation.

6 C. The authority may operate both within and outside the corporate
7 limits of the member municipalities.

8 Sec. 58. Section 48-5103, Arizona Revised Statutes, is amended to
9 read:

10 48-5103. Public transportation fund

11 A. A public transportation fund is established for the authority. The
12 fund consists of:

13 1. Monies appropriated by each municipality that is a member of the
14 authority or the county, if it elected to enter into the authority. Each
15 member municipality and member county shall appropriate monies to the public
16 transportation fund in an amount determined by the board.

17 2. Monies appropriated by a county that has not elected to enter into
18 the authority in an amount determined by the county board of supervisors.

19 3. Transportation excise tax revenues that are allocated to the fund
20 pursuant to section ~~42-6104~~ or 42-6105. The board shall separately account
21 for monies from transportation excise tax revenues allocated pursuant to
22 section 42-6105, subsection E- D, paragraph 3 for:

23 (a) A light rail public transit system.

24 (b) Capital costs for other public transportation.

25 (c) Operation and maintenance costs for other public transportation.

26 4. Monies distributed under title 28, chapter 17, article 1.

27 5. Grants, gifts or donations from public or private sources.

28 6. Monies granted by the federal government or appropriated by the
29 legislature.

30 7. Fares or other revenues collected in operating a public
31 transportation system.

32 B. On behalf of the authority, the fiscal agent shall administer
33 monies paid into the public transportation fund. Monies in the fund may be
34 spent pursuant to or to implement the public transportation element of the
35 regional transportation plan developed and approved by the regional planning
36 agency, including reimbursement for utility relocation costs as prescribed in
37 section 48-5107, adopted pursuant to section 48-5121 and for projects
38 identified in the regional transportation plan adopted by the regional
39 planning agency pursuant to section 28-6308.

40 C. Monies in the fund shall not be spent to promote or advocate a
41 position, alternative or outcome of an election, to influence public opinion
42 or to pay or contract for consultants or advisors to influence public opinion
43 with respect to an election regarding taxes or other sources of revenue for
44 the fund or regarding the regional transportation plan.

1 Sec. 59. Repeal

2 Laws 2010, seventh special session, chapter 9, sections 1 and 8 are
3 repealed.

4 Sec. 60. Laws 2011, second special session, chapter 1, section 130 is
5 amended to read:

6 Sec. 130. Effect on preexisting tax credits

7 A. ~~This act~~ LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1 does not
8 affect the validity of tax benefits granted under prior law.

9 B. Any certification or other approval issued under prior law by the
10 department of commerce before the expiration of any tax incentive qualifies
11 the taxpayer, who is otherwise eligible, for the intended tax benefits. No
12 provision of ~~this act~~ LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1 may be
13 interpreted to terminate tax incentives that were not claimed by qualified
14 taxpayers before ~~the effective date of this act~~ JULY 1, 2011.

15 C. Taxpayers who qualified for tax incentives under sections 41-1517,
16 and 41-1517.01, ~~title 41, chapter 10, article 2, section 42-12006, paragraph~~
17 ~~4 and sections 43-1074, 43-1075, 43-1075.01, 43-1161, 43-1163 and 43-1163.01,~~
18 Arizona Revised Statutes, in effect before ~~the effective date of this act~~
19 JULY 1, 2011, may use any applicable amounts of those credits, including
20 allowed carryovers, against income tax liabilities for subsequent taxable
21 years as provided by law in effect before ~~the effective date of this act~~ JULY
22 1, 2011.

23 D. THE REPEAL OF TITLE 41, CHAPTER 10, ARTICLE 2, ARIZONA REVISED
24 STATUTES, AND SECTIONS 20-224.03, 43-1074 AND 43-1161, ARIZONA REVISED
25 STATUTES, BY LAWS 2006, CHAPTER 387, SECTION 5, EFFECTIVE FROM AND AFTER JUNE
26 30, 2011, DOES NOT AFFECT:

27 1. THE PRIOR QUALIFICATION UNDER PRIOR LAW WITH RESPECT TO PROPERTY
28 CLASSIFIED AS CLASS SIX PURSUANT TO SECTION 42-12006, PARAGRAPH 4, ARIZONA
29 REVISED STATUTES, AS IN EFFECT BEFORE JULY 1, 2011. TAXPAYERS WHO QUALIFIED
30 FOR PROPERTY TAX CLASSIFICATION UNDER SECTION 42-12006, PARAGRAPH 4, ARIZONA
31 REVISED STATUTES, AND ON ANNUAL CERTIFICATION BY THE ARIZONA COMMERCE
32 AUTHORITY, MAY RETAIN AN ASSESSMENT RATIO OF FIVE PER CENT FOR PRIMARY
33 PROPERTY TAX PURPOSES, AND A SECONDARY PROPERTY TAX RATIO EQUIVALENT TO
34 PROPERTY ASSESSED PURSUANT TO SECTION 42-15001, ARIZONA REVISED STATUTES, FOR
35 SUBSEQUENT TAX YEARS AS PROVIDED BY LAW IN EFFECT BEFORE JULY 1, 2011.

36 2. THE ABILITY OF INSURERS AND TAXPAYERS WHO CLAIMED FIRST OR SECOND
37 YEAR TAX CREDITS FOR EMPLOYEES HIRED IN A QUALIFIED EMPLOYMENT POSITION
38 BEFORE JULY 1, 2011, FROM CLAIMING SECOND OR THIRD YEAR CREDITS FOR THE SAME
39 EMPLOYEES IN TAXABLE YEARS BEGINNING AFTER JULY 1, 2011. ALL COMPENSATION
40 PAID DURING THE TAXABLE YEAR TO AN EMPLOYEE IN A QUALIFIED EMPLOYMENT
41 POSITION HIRED BEFORE JULY 1, 2011, SHALL BE INCLUDED IN THE COMPUTATION OF
42 THE CREDIT EVEN IF PAID AFTER JULY 1, 2011. ALL CARRYOVERS CONTINUE TO BE
43 ALLOWED. THE TAXPAYER MUST CONTINUE TO COMPLY WITH ALL THE REQUIREMENTS OF
44 THE PRIOR LAW, INCLUDING ALL OF THE REPORTING AND FILING REQUIREMENTS IN
45 FORMER SECTION 41-1525, ARIZONA REVISED STATUTES.

1 Sec. 61. Savings; outstanding tax liabilities

2 The repeal of section 42-6104, Arizona Revised Statutes, pursuant to
3 this act does not affect or impair any outstanding tax liabilities incurred
4 under that section before the effective date of this act and any penalties
5 and interest accrued on unpaid amounts of those liabilities.

6 Sec. 62. Effective date

7 A. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws
8 2011, second special session, chapter 1, section 97 and this act, is
9 effective for taxable years beginning from and after December 31, 2017.

10 B. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2011,
11 second special session, chapter 1, section 114 and this act, is effective for
12 taxable years beginning from and after December 31, 2017.

13 Sec. 63. Retroactivity

14 A. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws
15 2011, second special session, chapter 1, section 96 and this act, applies
16 retroactively to taxable years beginning from and after December 31, 2011.

17 B. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2011,
18 second special session, chapter 1, section 113 and this act, applies
19 retroactively to taxable years beginning from and after December 31, 2011.

20 C. Sections 20-224.03, 41-1525, 43-1074 and 43-1161, Arizona Revised
21 Statutes, as amended by this act, apply retroactively to taxable years
22 beginning from and after June 30, 2011.

23 Sec. 64. Legislative intent

24 The amendments in this act to sections 20-224.03, 41-1525, 43-1074 and
25 43-1161, Arizona Revised Statutes, are intended to be clarifying changes and
26 are consistent with the legislature's intent when those sections were
27 enacted.

APPROVED BY THE GOVERNOR FEBRUARY 28, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 28, 2012.

Passed the House February 16, 2012,

by the following vote: 56 Ayes,

0 Nays, 3 Not Voting

[Signature] 1 vacant
Speaker of the House
Pro Tempore
Cheryl Laube
Chief Clerk of the House

Passed the Senate January 19, 2012,

by the following vote: 27 Ayes,

1 Nays, 1 Not Voting

[Signature] 1 vacant
Steve Fier *[Signature]*
President of the Senate
Charmion Billings
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1045

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate February 23, 20 12

by the following vote: 48 Ayes,

1 Nays, 1 Not Voting

Sylvia O'Brien
President of the Senate

Christopher D. Hill
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

24 day of February, 20 12

at 8:25 o'clock A M.

Paula Smith
Secretary to the Governor

Approved this 28th day of

February

at 9:56 o'clock A M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 28th day of February, 20 12

at 11:14 o'clock a M.

Kela Blumett
Secretary of State